Canada.

RESTRICTIVE TRADE PRACTICES COMMISSION

[16] REPORT

Concerning the Wholesale Trade
in Cigarettes and Confectionery
in the Edmonton District

DEPARTMENT OF JUSTICE
OTTAWA

Edmond Cloutier, C.M.G., O.A., D.S.P.
Queen's Printer and Controller of Stationery
Ottawa, 1958

RESTRICTIVE TRADE PRACTICES COMMISSION

R E P O R T

CONCERNING THE WHOLESALE TRADE IN CIGARETTES AND CONFECTIONERY IN THE EDMONTON DISTRICT

COMBINES INVESTIGATION ACT

Ottawa
1958

RESTRICTIVE TRADE PRACTICES COMMISSION

C. Rhodes Smith, Q.C., M.A., LL.B., B.C.L.
Chairman

A. S. Whiteley, B.A., M.A.
Member

RESTRICTIVE TRADE PRACTICES COMMISSION

O t t a w a

September 25, 1958

Honourable E. Davie Fulton, P.C., Q.C., M.P.,
Minister of Justice,
O t t a w a.

Sir:

I have the honour to submit to you herewith the report of the Restrictive Trade Practices Commission, arising out of an inquiry into the wholesale trade in cigarettes and confectionery in the Edmonton district.

The matter was brought before the Commission by the submission of a statement of the evidence obtained in the inquiry by the Director of Investigation and Research under the Combines Investigation Act and has been dealt with in accordance with the provisions of sections 18 and 19 of the Act.

Evidence and argument in regard to the Statement of Evidence were heard by the Commission at Edmonton on July 28 and 29, 1958. In these proceedings Messrs. S. F. Sommerfeld and D. A. Rankin appeared for the Director of Investigation and Research and Messrs. J. A. MacAulay, Q.C., W. O. Parlee, Q.C., and D. C. McGavin, Q.C., appeared for Macdonalds Consolidated Limited.

Yours faithfully,

(Sgd.) C. Rhodes Smith
Chairman

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CHAPTER I

INTRODUCTION

1. Reference to the Commission

This inquiry, which was made by the Director of Investigation and Research, was brought before the Restrictive Trade Practices Commission by submission of a statement of the evidence obtained in the inquiry, dated June 6, 1958, in accordance with section 18 of the Combines Investigation Act, R.S.C. 1952, Chapter 314, which reads as follows:

> "18. (1) At any stage of an inquiry,
>
> (a) the Director may, if he is of the opinion that the evidence obtained discloses a situation contrary to section 32 or 34 of this Act, or section 411 or 412 of the Criminal Code, and
>
> (b) the Director shall, if so required by the Minister, prepare a statement of the evidence obtained in the inquiry which shall be submitted to the Commission and to each person against whom an allegation is made therein.
>
> (2) Upon receipt of the statement referred to in subsection (1), the Commission shall fix a place, time and date at which argument in support of such statement may be submitted by or on behalf of the Director, and at which such persons against whom an allegation has been made in such statement shall be allowed full opportunity to be heard in person or by counsel.
>
> (3) The Commission shall, in accordance with this Act, consider the statement submitted by the Director under subsection (1) together with such further or other evidence or material as the Commission considers advisable.
>
> (4) No report shall be made by the Commission under section 19 or 22 against any person unless such person has been allowed full opportunity to be heard as provided in subsection (2)."

At the same time that the Statement of Evidence was submitted to the Commission it was submitted, also in accordance with section 18(1), to Macdonalds Consolidated Limited, against whom allegations were made therein.

The Statement of Evidence makes the following reference to the origin of the inquiry and the district involved:

> "3. Early in 1958 complaints were received from five wholesalers located in the City of Edmonton, one in Ponoka, one in Vegreville, and one in Vermilion, to the effect that certain of the larger wholesalers in Edmonton, and in particular Horne & Pitfield Ltd. and Macdonalds Consolidated Limited had begun to sell cigarettes, chocolate bars and chewing gum, at unreasonably low prices. The complaints further alleged that the effect would be to destroy competition or eliminate the complainants as competitors.
>
> 4. The area in which these wholesalers sell is bounded on the West by Jasper, on the East by Lloydminster and on the south by Lacombe. There appears to be no very definite northern boundary and sales are made intermittently at least as far as Aklavik, although the volume will be relatively small. For that matter, the other boundaries must be regarded as approximate rather than hard and fast dividing lines, and not all of the firms sell throughout the entire area. For purposes of this inquiry, the district just described is referred to as the Edmonton area in this Statement of Evidence."

2. Hearings and Witnesses

In the course of the inquiry hearings for the taking of evidence were held before Mr. C. Rhodes Smith, Q.C., Chairman, Restrictive Trade Practices Commission, at Edmonton and Ottawa. The following witnesses were examined at the places and on the dates indicated:

At Edmonton, March 3-4, 1958 -

Charles E. Lewis	Manager, Ponoka Wholesale, Ponoka, Alberta.
G. W. Sutherland	Manager, Vermilion Wholesale, Vermilion, Alberta.

N. Olyan	Central Wholesale, Limited, Vegreville, Alberta.
Neil J. Rooney	President, C. W. Boon & Co., Limited, Edmonton, Alberta.
Reuben Cipin	Secretary-Treasurer, Smokers' Supplies Limited, Edmonton, Alberta.
Jack Newhouse	Secretary-Treasurer and Acting Chairman of the Board, The Newhouse Wholesale Limited, Edmonton, Alberta.
B. T. Olsen	Manager, Edmonton Wholesale Tobacconists Limited, Edmonton, Alberta.
M. Panchyshyn	Manager, The Independent Wholesale Limited, Edmonton, Alberta.

At Edmonton, April 17, 1958 -

Fred Steinburg	Public Relations, Macdonalds Consolidated Limited, Edmonton, Alberta.
James Edward Bower	Grocery Supply Manager, Macdonalds Consolidated Limited, Edmonton, Alberta.
Denis Hague	Zone Controller, Macdonalds Consolidated Limited, Edmonton, Alberta.
Walter Alexander Hembroff	Division Manager, Macdonalds Consolidated Limited, Edmonton, Alberta.

Alfred Nelson Gahn	Manager, Horne & Pitfield Ltd., Edmonton, Alberta.

At Ottawa, May 2, 1958 -

Norman Loeb	Manager, Tobacco Division, M. Loeb Limited, Ottawa, Ontario.
Bertram Loeb	Manager, Grocery Division, M. Loeb Limited, Ottawa, Ontario.

The Commission has been advised by the Director that the two witnesses examined at Ottawa were examined for the purpose of comparing the operations of a representative tobacco and confectionery wholesaler in the Ottawa area with those of wholesalers examined at Edmonton. However, the evidence obtained at Ottawa was not considered relevant to the situation examined in this inquiry.

Certain documents were also received in evidence during the inquiry and marked as exhibits, numbered 1 to 36. Returns of information were made to the Director pursuant to notices issued under section 9 of the Combines Investigation Act.

By an order dated June 23, 1958 the Commission fixed Monday, July 28, 1958 at 10 o'clock in the forenoon, in the city of Edmonton, Alberta as the date, time and place at which argument in support of the Statement of Evidence could be submitted and at which persons concerned in the inquiry would be allowed full opportunity to be heard in person or by counsel, in conformity with section 18(2) of the Combines Investigation Act. In giving notice thereof, the Commission further informed the parties that at the hearings they would have the opportunity of calling any witnesses or of submitting additional documentary evidence.

The parties were informed subsequently that the hearing would be held in the Court House at Edmonton. At the opening of the hearing on July 28 the following appearances were entered:

S. F. Sommerfeld D. A. Rankin	-	representing the Director of Investigation and Research

J. A. MacAulay, Q.C. - W. O. Parlee, Q.C. D. C. McGavin, Q.C.	representing Macdonalds Consolidated Limited

Before argument was heard by the Commission the following witnesses were examined and certain exhibits, numbered H-1 to H-4, were received:

James Edward Bower	Grocery Supply Manager, Macdonalds Consolidated Limited, Edmonton, Alberta.
Gordon Murray Brown	Grocery Buyer, Macdonalds Consolidated Limited, Edmonton, Alberta.
Philip Peter Fuhr	Retail Merchant, Beach Corner, Alberta.
Stanley Grandish	Retail Merchant, Hylo, Alberta.
John James Mackie	Retail Merchant, Athabasca, Alberta.
B. T. Olsen	Manager, Edmonton Wholesale Tobacconists Limited, Edmonton, Alberta.
Reuben Cipin	Secretary-Treasurer, Smokers' Supplies Limited, Edmonton, Alberta.
William F. Davis	Manager, Western Grocers, Limited, Edmonton, Alberta.
Alfred Nelson Gahn	Member of Head Office Staff, Horne & Pitfield Ltd., Calgary, Alberta.
M. Panchyshyn	Manager, The Independent Wholesale Limited, Edmonton, Alberta.

Jack Newhouse	Secretary-Treasurer and Acting Chairman of the Board, The Newhouse Wholesale Limited, Edmonton, Alberta.
Frank R. Wallace	General Manager, H. H. Cooper Limited, Edmonton, Alberta.
Neil J. Rooney	President, C. W. Boon & Co., Limited, Edmonton, Alberta

Mr. Reuben Cipin also appeared as counsel for Mr. Jack Newhouse.

For purposes of clarity, reference in this report to evidence given at the earlier hearings for the taking of evidence will be made as follows: "Evidence, p. . . .". Reference to evidence given at the hearing before the Commission will be made as follows: "Hearing, p. . . .".

3. Allegations

The following paragraphs in the Statement of Evidence set out the allegations of the Director and his conclusions from the evidence:

"5. The evidence indicates that since the 6th day of January, 1958, Macdonalds Consolidated Limited has engaged in a policy of selling goods, to wit, cigarettes, chocolate bars and chewing gum, at its Edmonton, Alberta, branch at prices that are unreasonably low and that this policy has had and continues to have the effect of substantially lessening competition and eliminating competitors in the Edmonton, Alberta, area.

. . .

163. The evidence indicates that, on or about January 6, 1958, Macdonalds Consolidated Limited reduced its prices of popular brands of cigarettes, chocolate bars and chewing gum to independent retailers at its Edmonton branch, as follows:

	Cigarettes (Popular Brands, Per Carton)		Chocolate Bars (Per Box)		Chewing Gum (Per Box)	
	Selling Price $	Gross Profit on Selling Price %	Selling Price $	Gross Profit on Selling Price %	Selling Price $	Gross Profit on Selling Price %
Jan. 1, 1957, to Jan. 6, 1958	2.85	5.4	1.83	7.65	.79	5.06
Jan. 6, 1958, to Jan. 31, 1958	2.79	3.37	1.75	3.43	.78	3.85

164. The evidence also indicates that these reduced prices are unreasonably low for the following reasons:

(1) The Company's average gross profit for the year 1957, before allowances and cash discounts, was 5.38 per cent of sales. Allowances and discounts bring this percentage to 6.19 per cent. The only discount applicable to the goods in question is a cash discount of .45 per cent granted by Macdonald Tobacco Inc. and which has not been included in the margins set out in this Chapter.

(2) Selling and warehouse expenses for the Edmonton branch of the Company for 1957 amounted to 5.64 per cent of sales to independent retailers. Even if warehouse expenses were abnormally high in 1957, it should be noted that they represent only 2.64 per cent of sales.

(3) The new margins of profit on cigarettes, chocolate bars, and gum are among the lowest of any now being taken by the Company, and until the reductions of January of this year, only one item, canned evaporated milk, carried a margin of less than four per cent on cost. As at April 17, 1958, there were eight items on which the margin of Macdonalds Consolidated Limited was less than four per cent on cost (Exhibits 31, 32).

(4) The new prices were put into effect only at the Edmonton branch and the Camrose branch of the Company and higher margins prevailed at the Company's other branches in the Province of Alberta. In the case of chewing gum, the price at the Edmonton branch was lowered to

78 cents, as compared with 79 cents at the Camrose branch.

(5) The new margins of profit on the items in question are considerably less than the average gross profit or the expenses of doing business of other wholesalers in the Edmonton area, as indicated in the evidence of such wholesalers reviewed in this Statement.

1957

	Average Gross Profit as % of Sales	Expenses as % of Sales
Ponoka Wholesale	5.98	3.17*
Central Wholesale, Limited	6.45	5.92
C. W. Boon & Co., Limited	6.69	6.33
Smokers' Supplies Limited	7.12	6.24
The Newhouse Wholesale Limited	6.69	6.72
Edmonton Wholesale Tobacconists Limited	6.03	5.38
The Independent Wholesale Limited	7.12	6.27
Macdonalds Consolidated Limited**	6.19	5.64

(6) The evidence indicates that Macdonalds Consolidated Limited reduced its margins per unit at the Edmonton branch as follows:

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* Contains no allowance for proprietor's salary.

** Based on sales to independent retailers

		From $	To $
Cigarettes	- Premium Brands	.27	.11
	Popular Brands	.15	.09
	Low price Brands	.20	.08
Chocolate Bars		.14	.06
Gum		.04	.03

165. The wholesaler's 'conventional' mark-up that presumably would have been taken, had resale price maintenance not been prohibited, on a carton of 200 standard brand cigarettes is 21 cents. Prior to January 6, 1958, this mark-up had, for some time, stood at 15 cents in the Edmonton area. It was then reduced by Macdonalds Consolidated Limited to nine cents. While it is reasonable to assume, having regard to the fact that the 21 cents margin was of general application, that it contained room for reduction on the part of the more efficient operators, it would appear unreasonable to assume that it was capable of a reduction of the dimensions above indicated. There is, in fact, no evidence that the reductions of January, 1958, were based upon any cost accounting study by Macdonalds Consolidated Limited, and, in view of the size of the reductions, and in view of the fact that they were made without any reference to the cost of handling cigarettes or confectionery, there would appear to be no reason for Macdonalds Consolidated Limited to believe that the new prices were still sufficient to show some margin of net profit. Furthermore, except for the Camrose branch, where prices were reduced at the same time as Edmontòn, and the Medicine Hat branch, which has had a low price structure at least since the beginning of 1957, prices of cigarettes, chocolate bars, and chewing gum are substantially higher at all other Alberta branches of Macdonalds Consolidated Limited than at Edmonton.

166. There is no evidence that the policy of Macdonalds Consolidated Limited in lowering the selling price of cigarettes, chocolate bars and gum at its Edmonton branch is designed to have the effect of destroying competition or eliminating a competitor. However, there is evidence that this policy will have that effect. Chocolate bars and gum form a relatively small proportion of the business of those likely to be injured, and the effect, therefore, of the reduction of these prices is not as clear as in the case of cigarettes. In the case of cigarettes, it is clear that the

lower prices will render it difficult, if not impossible, for smaller independent wholesalers to compete in the sale of cigarettes, and will result in the elimination of some of such wholesalers. The low prices on chocolate bars and gum will, of course, aggravate the situation.

167. The following table offers a comparison of gross profit and total expenses for each of the firms indicated in 1957 when the selling price of popular brands of cigarettes was $2.85 per carton (5.4%), with gross profit and total expenses if, in 1957, the same volume of cigarettes had been sold at $2.79 per carton (3.37%). The evidence indicates that the vast majority of cigarettes sold by each of the firms in question was in the popular brands, and for the purposes of this comparison no allowance has been made for the small volume of non-standard brands sold.

1957

A - When Popular Brands of Cigarettes Sold at $2.85 per Carton
B - If Popular Brands of Cigarettes Had Sold at $2.79 per Carton

		Number of Cartons	Total Sales $	Total Gross Profit $	Total Expenses $
Ponoka Wholesale	A	61,855	344,274.25	20,598.81 5.98%	10,920.60 3.17%***
	B	61,855	341,181.50*	17,506.06** 5.13%	10,920.60 3.20%
Central Wholesale, Limited	A	77,323	1,175,248.48	75,803.62 6.45%	69,539.45 5.92%
	B	77,323	1,170,609.10*	71,164.24** 6.08%	69,539.45 5.94%
C. W. Boon & Co., Limited	A	668,810	2,875,808.07	192,397.94 6.69%	182,058.35 6.33%
	B	668,810	2,835,679.47*	152,269.34** 5.37%	182,058.35 6.42%
Smokers' Supplies Limited	A	175,141****	662,371.38	47,189.55 7.12%	41,298.53 6.24%
	B	175,141	651,862.92*	36,681.09** 5.63%	41,298.53 6.34%
The New-house Whole-sale Limited	A	316,410	3,543,090.11	237,062.73 6.69%	238,003.75 6.72%
	B	316,410	3,524,105.51*	218,078.13** 6.19%	238,003.75 6.75%
Edmonton Wholesale Tobacconists Limited	A	347,068	1,307,614.16	78,876.41 6.03%	70,394.63 5.38%
	B	347,068	1,286,790.08*	58,052.33** 4.51%	70,394.63 5.47%
The Independ-ent Wholesale Limited	A	156,384	1,800,662.39	128,129.56 7.12%	112,986.43 6.27%
	B	156,384	1,791,249.35*	118,746.52** 6.63%	112,986.43 6.31%

* Based upon premise that all cigarettes sold at $2.79 per carton ($2.80 in case of Ponoka Wholesale).

** Arrived at by taking number of cartons sold in 1957 and multiplying by six cents (five cents in case of Ponoka Wholesale) and subtracting this from total gross profit for 1957.

*** Does not include any salary for proprietor.

**** Does not include 16,557 cartons sold under DEWLINE Contract.

168. There is also evidence that the lessening of competition likely to result from the price policy of Macdonalds Consolidated Limited will be substantial. The evidence indicates that the wholesalers whose operations were examined in Chapter IV hereof, as well as the Edmonton branch of Macdonalds Consolidated Limited, sell, generally speaking, in an area bounded on the West by Jasper, on the East by Lloydminster, on the South by Lacombe, and on the North by the Arctic Circle. Not all of these firms, of course, sell throughout the entire area, but all appear to confine their activities to its limits. G. J. Armstrong, Chief Licensing Officer, Licensing Branch, Department of Industries and Labour, Province of Alberta, in a letter to the Director of Investigation and Research, dated February 14, 1958, supplied a list of wholesale tobacco dealers, wholesale dealers licensed to sell confectionery and tobacco, and wholesale dealers licensed to sell groceries, confectionery and tobacco in the Province of Alberta.

169. This list indicated that there were five wholesalers licensed to sell confectionery and tobacco, and twenty-four licensed to sell groceries, confectionery and tobacco, located in the competitive area just described. Notices for Returns of Information under Section 9 of the Combines Investigation Act were sent to these wholesalers and it appeared from the replies to these notices that six are either inactive or do not engage in the distribution of tobacco products. The following is a list of the twenty-nine wholesalers and those not engaged in the tobacco business have been marked with an asterisk (*):

Macdonalds Consolidated Limited	Edmonton, Alberta
Macdonalds Consolidated Limited	Camrose, Alberta
Horne & Pitfield Ltd.	Edmonton, Alberta
Horne & Pitfield Ltd.	St. Paul, Alberta
*I. C. Lyons Company	Edmonton, Alberta
Alberta Co-operative Wholesale Association Limited	Edmonton, Alberta
Brown Fruit	Edmonton, Alberta
Brown Fruit	Wetaskiwin, Alberta
H. H. Cooper Limited	Edmonton, Alberta
*D. C. Breminer	Edmonton, Alberta
Edmonton Associated Wholesale Ltd.	Edmonton, Alberta
Hudson's Bay Company Limited	Edmonton, Alberta
*Mah Shew	Edmonton, Alberta
The Merco Wholesale Limited	Edmonton, Alberta

Scott Fruit Company (#)	Edmonton, Alberta
National Fruit Company (#)	Edmonton, Alberta
*J. Phillips & Co. Ltd.	Edmonton, Alberta
Royal Fruit Wholesale	Edmonton, Alberta
Western Grocers Limited	Edmonton, Alberta
*Adrian Maris & Sons	Edson, Alberta
*Jasper Wholesale Ltd.	Edson, Alberta
Ponoka Wholesale	Ponoka, Alberta
Central Wholesale, Limited	Vegreville, Alberta
Vermilion Wholesale	Vermilion, Alberta
C. W. Boon & Co., Limited	Edmonton, Alberta
Smokers' Supplies Limited	Edmonton, Alberta
The Newhouse Wholesale Limited	Edmonton, Alberta
Edmonton Wholesale Tobacconists Limited	Edmonton, Alberta
The Independent Wholesale Limited	Edmonton, Alberta

170. Returns of Information under Section 9 of the Combines Investigation Act, together with the other oral and documentary evidence indicate that the twenty-three wholesalers engaged in the tobacco trade had, in 1957, total sales of $61,214,667.92, of which $11,968,287.02 was in cigarettes. Of these figures, Ponoka Wholesale, Central Wholesale, Limited, C. W. Boon & Co., Limited, Smokers' Supplies Limited, The Newhouse Wholesale Limited, Edmonton Wholesale Tobacconists Limited, and The Independent Wholesale Limited, accounted for $11,709,068.84 of the total sales, and $5,183,953.67 of the cigarette sales. In determining the total sales of cigarettes by all the firms, the figure for Horne & Pitfield Ltd. was based on the assumption that all sales were made at $2.85 per carton. This would be likely to inflate the total figure slightly since, under the cost-plus plan, a considerable volume would be sold at less than $2.85. Total sales and cigarettes sales for Macdonalds Consolidated Limited included only sales to independents and did not include sales to Canada Safeway Limited. It would appear, therefore, that while the seven firms mentioned have slightly more than nineteen per cent of the total sales of those licensed to sell tobacco, they sell forty-three per cent of the dollar volume of cigarettes distributed to independent retailers in the area described in paragraph 168 hereof."

(#) Division of Consolidated Fruit Company Limited

4. Position Taken by Macdonalds Consolidated Limited with Respect to the Allegations

The Commission had requested that a brief stating the position taken by Macdonalds Consolidated Limited with respect to the allegations made by the Director be filed with the Commission before the date of the hearing, if possible. The brief, which was presented at the opening of the hearing at Edmonton on July 28, may be summarized as follows:

1. Tobacco jobbers in the Edmonton district had been offering discounts from prevailing prices to a number of selected buyers prior to the adoption of a cost-plus plan of merchandising by Horne & Pitfield Ltd., wholesale grocers, about February, 1956.

2. Under the cost-plus plan of Horne & Pitfield Ltd. customers made purchases at invoice cost at the company's Edmonton warehouse plus profit and service charges which varied depending upon volume of weekly purchases. The profit and service charges were larger in respect of smaller volume purchases and smaller in respect of larger volume purchases.

3. The evidence establishes that at least from the spring of 1957 the Edmonton branch of Macdonalds Consolidated Limited had begun to experience competitive pressures from the cost-plus plan of Horne & Pitfield Ltd. and other wholesalers who had adopted this method of selling. This competitive pressure caused a decline in the total sales of Macdonalds Consolidated Limited to its customers known as the independents. The losses of sales developed to the point where some action by Macdonalds Consolidated Limited was necessary in order to maintain its competitive position.

4. Action was taken on January 6, 1958 by Macdonalds Consolidated Limited to reduce its selling prices of cigarettes, chocolate bars and chewing gum and also the prices of sugar, certain breakfast foods, and soups as described in the Statement of Evidence.

5. Under date of January 14, 1958, Macdonalds Consolidated Limited, at Edmonton, addressed a communication to its customers, the first two paragraphs of which stated:

> "In order to keep you competitive and to overcome the various sales gimmicks being offered on a preferential basis by our competitors, we have reduced the price on cigarettes, tobacco and chocolate bars. This also applies on a large range of staple lines of canned goods, breakfast foods, sugar and etc. effective January 6th, 1958.

This offer will apply to all merchants whether their volume of business be large or small who favour us with their business. We would like to point out that you do not have to purchase more than your normal requirements to enjoy these prices."

6. The policy of Macdonalds Consolidated Limited is:

(a) To sell at a reasonable mark-up;

(b) To meet competition;

(c) To charge all customers the same price.

The action taken by Macdonalds Consolidated Limited in reducing prices in January, 1958 was strictly in accordance with the above policy. Its action was for the purpose of meeting a competitive situation and for no other reason.

7. Issue was taken with the conclusions of the Director that the evidence in the inquiry indicates that the prices at which the Edmonton branch of Macdonalds Consolidated Limited has sold cigarettes since January 6, 1958 have been unreasonably low. The following submissions were made:

(a) It is incorrect to compare the gross profit on selling price of 3.37% (3.49% on cost) with the company's average gross profit of 5.38% of sales in 1957. In such a comparison no consideration is given to the fact that cigarettes, comparatively, occupy a small space, are a demand item and accordingly involve no selling expense, and in addition they turn over very rapidly and can be handled at a lower cost. Having regard to the above factors the company considers that with a gross profit of 3.37% on selling price (but 3.49% on cost) cigarettes are a profitable item, having regard to their small bulk and rapid turnover.

(b) For the same reasons the average selling and warehousing expenses of 5.64% in 1957 on all sales to independent retailers are not applicable to sales of cigarettes, chocolate bars and chewing gum, particularly cigarettes, and accordingly no conclusion that the prices are unreasonably low can properly be deduced or arrived at on the basis of comparing this ratio with the low percentage of gross profit on selling price for cigarettes, chocolate bars and chewing gum.

(c) The fact that the mark-ups on cigarettes, chocolate bars and gum are among the lowest of any now being taken by the company, does not establish that the prices on such items are unreasonably low. The items on which the company has taken a low margin of profit are the items which the company knows, from its experience, can be handled profitably on a comparatively small mark-up.

(d) The fact that the company has charged higher prices at its other branches in Alberta does not prove that the Edmonton prices are unreasonably low. Without making an examination of the factors on which prices at all other branches are fixed, i.e., without knowing whether there were special cost and handling factors affecting other branches which do not affect the Edmonton branch, no conclusion can be reached. Also, the fact that prices were reduced only at the Edmonton branch shows that the company was not following a "policy" of adopting low prices as is required by section 412(1)(c) of the Criminal Code, but rather was dealing with a specific situation in a very limited area of the company's operations.

(e) It is quite inconclusive to say that the company's prices are unreasonably low because the margin of profit is less than the average gross profit of other wholesalers in the Edmonton area, particularly those referred to. They are all small wholesalers dealing in limited quantities. The opportunities for making savings in various ways which are available to Macdonalds, particularly by reason of its size and volume handled, are undoubtedly not available to the other wholesalers named. Accordingly, no proper conclusion can be arrived at by making comparison with such other wholesalers. Macdonalds does not attempt to give the type of service that these smaller wholesalers provide. They do not call on the customers, sort and stock their cigarette racks, and possibly give personal delivery service in private automobiles or render any of the types of service given by this type of wholesaler. In summary, Macdonalds Consolidated Limited does not attempt to give the personalized service to customers which is provided by some wholesalers.

(f) It is inconclusive to infer that in the absence of a cost accounting study there would appear to be no reason for Macdonalds to believe that the new prices were still sufficient to show a small margin of net profit. It would be quite impracticable for the company to undertake a detailed accounting study in every instance in which it might wish to change prices. The company, from its experience, knows the items which can be handled on a smaller than average

margin of profit. The company's purpose in carrying on business is to make a profit. The Director has made it clear that the company has had no designs in the present circumstances of reducing competition. As cigarettes are a comparatively large volume item, it certainly would not be in the company's interests to reduce the price of cigarettes to a level at which it would be unprofitable to handle them. The company submits that since in its judgment, it considered that it was justified in reducing prices to the levels indicated, and since the company's purpose is to make a profit in its operations, it is quite inconclusive to say that there appears to be no reason for Macdonalds to believe that the new prices would show some margin of net profit. In fact the company believes that at the present prices it does make a margin of profit on the cigarettes.

(g) Under section 412(1)(c) it is necessary to establish that the policy in question actually at the present time has the effect of destroying competition or eliminating a competitor. In other words, it is necessary for the Director to show actual destruction of competition or elimination of a competitor, and not merely the possibility of such an event in the future. Such evidence has not been given. Vague fears for the future, which may have been expressed by the complainants, are an insufficient basis for claiming that an offence has actually been committed. It is too serious a matter when a criminal offence is involved to base its commission on remote, uncertain and speculative grounds. Also, even if one of the complainants had gone out of business, it would be necessary to prove conclusively that such a result had come about by reason entirely of the action of the company and without any other factors having contributed. The company submits that it would be most difficult to prove such a situation, and that such proof has not been established in the present circumstances. In view of the many and varied elements which affect the success or failure of a business, it is, in most instances, impossible to attribute results directly to one particular factor.

8. It was submitted that for the following reasons the actions of Macdonalds Consolidated Limited in lowering the selling prices of cigarettes and certain other goods at its Edmonton branch did not contravene section 412(1)(c) of the Criminal Code:

(a) The section requires that there be a "policy" of selling goods at prices unreasonably low. The word policy is defined in Webster's New International Dictionary, 2nd edition, as "a settled or definite course or method adopted

and followed by a government, institution, body or individual".

Macdonalds Consolidated Limited carries on business in three divisions in Canada in the Provinces of British Columbia, Alberta, Saskatchewan and Manitoba. The actions complained of took place in a portion only of one of the provinces to meet a particular situation in that area. This action by the company cannot be considered as a policy of the company, but rather as an isolated activity dealing with a particular situation in a limited area.

(b) Section 412(1)(c) has not previously been interpreted by the courts and no rule has been established as to what the section means by the words "unreasonably low". For this reason the company has not had the benefit of any guide in determining its action. The company submits that the prices at which it sold were, for the reasons previously given, not unreasonably low within the meaning of the section.

(c) The company also submits that its action has not lessened competition or eliminated a competitor as is required by the section.

(d) The persons who have made complaints and given evidence cannot be considered as "competitors" of the company.

(e) It is to be noted that under the cost-plus system introduced by Horne & Pitfield Ltd. and other wholesalers there is discrimination as between larger retailers and smaller retailers. The natural effect of such discrimination would cause the smaller retailer to be unable to compete with a larger retailer. Because the price structure of Macdonalds does not show discrimination, smaller retailers have been able to satisfy their requirements by making purchases at Macdonalds. If Macdonalds is compelled to alter its pricing policy, many smaller retailers, who at present are able to carry on only because they can purchase from Macdonalds at prices comparable to the larger retailers, will be placed in a most unfortunate position. It is possible therefore that if Macdonalds is required to change its present pricing policy, competition may be lessened at the retail level. Presumably this is not the effect which is intended by the Director or the Commission, or indeed by the whole scheme of the Act.

CHAPTER II

WHOLESALE TRADE IN CIGARETTES AND CONFECTIONERY IN THE EDMONTON DISTRICT

1. Channels of Distribution

The following comments on the wholesale channels through which cigarettes and confectionery are distributed are made in the Statement of Evidence:

> "Tobacco and confectionery are distributed at the wholesale level by wholesale grocers, fruit wholesalers, and tobacco and confectionery jobbers to grocery stores, restaurants, tobacco shops and a wide range of small retailers. Cigarettes are also distributed by the manufacturer to certain direct retail accounts at the direct retailer's price . . . and, since 1952, food chain stores have been granted the wholesale price by the manufacturers.*
>
> 22. The wholesale grocery trade has been undergoing a significant change in the pattern of distribution over the past few years. The rise of the corporate chain retail store, able to buy direct, or through a wholesale affiliate, from the manufacturer, has put pressure upon many independent wholesalers to revise their own methods of doing business, or reduce their margins, in order to keep their principal customers, the retailers, and thereby themselves, competitive and in business. This has resulted in the development of the voluntary independent chain, such as IGA, various volume purchase schemes, cash-and-carry, and other methods of distribution designed to lower distribution costs and lower prices to the retailer. Since cigarettes are a staple wholesale grocery item, these savings and lower prices have applied to them, as well as to groceries generally.

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* Report on an Inquiry into Loss-Leader Selling, The Restrictive Trade Practices Commission, Ottawa, 1955, pp. 200 to 201.

23. Tobacco is somewhat unique, in that a distinct wholesale trade exists in this commodity. Usually it is coupled with confectionery and a few sundry items, but eighty to ninety per cent of the total volume may be in tobacco, with a very high proportion of the latter being cigarettes. Under resale price maintenance and a restricted franchise system, the tobacco jobber was able to operate satisfactorily with a modest volume and the operations of wholesale grocers could have little or no direct effect upon his business. However, with the rise of price competition in the sale of cigarettes the tobacco jobber is finding it increasingly difficult to maintain his identity in the trade."

The wholesale firms in the Edmonton district engaged in the distribution of cigarettes are shown in paragraph 169 of the Statement of Evidence, quoted above.

2. Conditions Preceding Price Reductions in January, 1958

The classes of cigarettes with which the inquiry is concerned are what are described as popular brands of various manufacturers. There are some brands of cigarettes which are sold for slightly less or slightly more than the popular brands but, according to the evidence, they form a very small proportion of the wholesale cigarette trade.

Since February, 1953 when there was a reduction in the excise tax on cigarettes and a further reduction in manufacturers' prices, popular brands of cigarettes have been supplied to wholesalers and food chains by the manufacturers at $13.48 per thousand or $2.696 per carton of 200 cigarettes. The following description of terms of sale is given in the Statement of Evidence:

"14. Sales terms of all the manufacturers are fifteen days net, with few exceptions. One company, Macdonald Tobacco Inc., gives a discount of .45 per cent for cash. In some instances, other companies give allowances for advertising purposes at certain points in Eastern Canada."

Changes in the wholesale prices of popular brands of cigarettes, prior to January, 1958, were described, as follows, in the evidence given in the inquiry by Mr. N. J. Rooney, President, C. W. Boon & Co., Limited:

"A. . . . everybody was selling at $2.91 for a number of years. They had price maintenance before that. On January 2, 1955, I am almost sure that is the year, the western chain [Western Grocers, Limited], right from the Head of the Lakes through to Alberta, including Alberta, established a price of $2.85, and that lasted maybe for a month or six weeks, and somebody else went lower. It dropped then to $2.80, but confectionery, chocolate bars, and that, was not included. It was just straight tobacco. After some months, I don't know how long it would be, it was more or less of a price established of $2.85, and that continued on until January 2nd of this year."

(Evidence, p. 80)

In his evidence before the Commission Mr. Rooney said that the price of $2.80 prevailed in 1955 until the latter part of November or the first part of December (Hearing, p. 203).

3. Development of Cost-Plus Plans of Wholesaling

The evidence in the inquiry does not indicate the exact date when the cost-plus system of wholesaling merchandising was first adopted in the Edmonton district, but it is indicated by the evidence of some witnesses that Edmonton Associated Wholesale Ltd. had introduced a cost-plus plan some time prior to its adoption by the Edmonton branch of Horne & Pitfield Ltd., which carries on a general wholesale grocery business including tobacco and confectionery. Horne & Pitfield Ltd., which has its head office in Calgary and eight branches in Alberta in addition to Edmonton, had introduced cost-plus plans of merchandising in Calgary, Lethbridge and Medicine Hat in 1954 or 1955. The introduction of a similar plan at the Edmonton branch of Horne & Pitfield Ltd. is described, as follows, in the Statement of Evidence:

"50. Early in 1956, Horne & Pitfield Ltd. instituted at the Edmonton branch a method of selling that has been described as cost-plus. It had previously been adopted by the Company in Calgary and Lethbridge (Evidence, p. 262). Under the plan, larger stores purchasing from $250 to $5000 worth of goods per week have the option of buying on a cost-plus basis, that is, at the invoice cost laid down at Horne & Pitfield Ltd.'s warehouse, plus a profit and service charge varying from six per cent to three per cent, according to the amount purchased in any week plus a standard fee of two

dollars per week. Accounts buying on a cost-plus basis must buy the quantity specified, accept shipment on the day of the week specified, order by Order Form, and pay cash for their goods.

51. The schedule of service fees now in use by Horne & Pitfield Ltd. is set out in Exhibit 'B' to Exhibit 36, and came into effect in the spring of 1957 (Evidence, pp. 268-69). Prior to that time, customers buying less than $500 worth of merchandise per week were not included under the plan. The new scale also resulted in reducing somewhat the service fees payable by customers purchasing more than $1500 worth of merchandise per week. According to A. N. Gahn, the Manager of Horne & Pitfield Ltd., the change in the scale of fees had been introduced to meet the competition of Western Grocers, Limited, and H. H. Cooper Limited, who had also started cost-plus plans (Evidence, pp. 268-70).

52. Mr. Gahn also indicated in his evidence that the original purpose of the cost-plus plan was to assist independent customers to become competitive with the corporate chain retailers, and to meet the competition of Edmonton Associated Wholesale Ltd., which had preceded Horne & Pitfield Ltd. with a cost-plus plan (Evidence, pp. 267-68)."

In the medium and higher purchase brackets the scale of fees under the cost-plus plan of Horne & Pitfield Ltd. runs from 4 per cent for weekly purchases of $750 to 3 1/2 per cent for weekly purchases of $1,000. For weekly purchases of $2,000 the fee is 3 1/4 per cent (Exhibit 36).

Western Grocers, Limited and its subsidiary H. H. Cooper Limited introduced cost-plus plans of merchandising at their Edmonton warehouses in April, 1957. The conditions attaching to the cost-plus plans of Western Grocers, Limited and H. H. Cooper Limited are generally similar to the conditions described above for the plan of Horne & Pitfield Ltd. The retailer must use the supplier's order form, place his order twenty-four hours in advance of the day specified for deliveries and send a cheque with the order. The scale of fees under the plans of Western Grocers, Limited and H. H. Cooper Limited is based on purchases over a four-week period and ranges from 6 1/2 per cent for four-week purchases of $1,000 to 3 1/4 per cent for four-week purchases of $8,000 or more. For customers who make purchases other than under a cost-plus plan, fees are based on the amount of the individual order and range from 9 per cent for an order of $50 to $100 to 6 1/2 per cent for an order of $500 (Exhibit H-2).

4. Competitive Pressure of Cost-Plus Plans on Macdonalds Consolidated Limited

The Statement of Evidence contains the following review of the effect on the business of the Edmonton branch of Macdonalds Consolidated Limited of the cost-plus plans of merchandising used by Horne & Pitfield Ltd., Western Grocers, Limited and H. H. Cooper Limited:

> "144. The evidence indicates that at least from the spring of 1957, Macdonalds Consolidated Limited had begun to experience competitive pressures from the cost-plus plan of Horne & Pitfield Ltd. and other wholesalers that had adopted this method of selling. This pressure was being felt principally on larger accounts, since medium size and smaller accounts would not be able to buy in sufficient volume to qualify for the very favourable prices that could be obtained under the cost-plus plan. Mr. Fred Steinburg, public relations representative for Macdonalds Consolidated Limited, stated in evidence that he conducted a survey for the Company beginning in April of 1957 which indicated that business was being lost to competitors operating a cost-plus plan, and that a price of $2.79 on cigarettes under a cost-plus plan was frequently mentioned (Evidence, p. 187). Mr. Steinburg also indicated that it was large volume accounts that were most affected by the cost-plus competition:
>
> 'Q. Generally speaking, what was the size of the account or the account that you did lose from time to time to the cost-plus scheme?
>
> A. Oh, there was one, his purchase would run into about from $2,200 to $2,400 a week, that is one example; and another one I would say around $1,500 a week; and there was another one that would run possibly $1,800 to $2,000. I am just making more or less of a guess which I think is quite accurate, but I cannot be just quite sure on those figures.
>
> Q. This was in the course of your survey starting in April 1957?
>
> A. Yes, that is right.

Q. Did you run into any examples of what you might describe as small accounts that you lost to a cost-plus plan?

A. Well, the smaller ones would not have much to gain, that is, there were diversions of tobacco by some of our smaller accounts, but on the general run there was not the same degree of smaller ones as larger ones that had gone, because there was not the advantage for them to join up.'

(Evidence, pp. 187-88)

145. Mr. Steinburg also stated that the source of this cost-plus competition was Horne & Pitfield Ltd., H. H. Cooper Limited, and Western Grocers, Limited (Evidence, p. 188).

146. This competitive pressure was reflected in a decline in cigarette sales by Macdonalds Consolidated Limited to independent retailers during the latter half of 1957. A similar decline is apparent in sales of chocolate bars and gum during this period, although it is not as marked. A slight decline also occurred in the case of total sales to independents (Exhibit 30, pp. 13, 14, 17; Evidence, pp. 204-06). There has been some recovery on cigarettes, chocolate bars and gum, and on total sales since the beginning of 1958, although cigarette sales to independents remained down (Exhibit 33).

147. During the latter part of 1957, from about September to December, Horne & Pitfield Ltd.'s purchases of cigarettes were increasing (Exhibit 35) and this was reflected in increased sales. The cost-plus plan had been instituted at the Edmonton branch in 1956, but the scale of service charges was revised downwards in the spring of 1957, as a result of competition from H. H. Cooper Limited and Western Grocers, Limited.

148. James E. Bower, Edmonton branch Manager for Macdonalds Consolidated Limited, confirmed that cost-plus competition was making itself felt in 1957 (Evidence, pp. 195-99). He also indicated that while cigarettes, tobacco and confectionery were important items from a competitive standpoint, other items such as sugar and coffee, on which the cost to the wholesaler tended to be relatively stable, also afforded customers the opportunity

of making direct comparisons on these items between prices of Macdonalds Consolidated Limited and prices under a cost-plus plan (Evidence, pp. 202-03). Mr. Bower indicated that the effect of this competition would be as follows:

> 'Q. . . . Did you find that this underselling was affecting many of your lines?
>
> A. Well, if it was going to affect us it meant losing a customer, you weren't just going to lose a customer of sugar, you were going to lose him completely as soon as your competitor gets his foot in the door. Sooner or later it means you are going to lose that customer completely.
>
> Q. Do you mean by that that if your customer obtained a more favourable price on one or two staple items from a competitor of yours that you were in danger of losing the whole account?
>
> A. Well, I mean a merchant does not usually buy one or two items from an account because the price is better, he has to look at the over-all deal, naturally. We were only trying to hold our accounts.'
>
> (Evidence, pp. 202-03)

149. Mr. Bower also stated in evidence that Macdonalds Consolidated Limited reduced prices on a range of commodities in January of 1958, and produced a list of those commodities, together with their mark-ups as a percentage of cost both before and after the reduction, which was entered as Exhibit 31. These reductions were as follows:

Sugar	5%	to 3 1/2%
Nabisco Breakfast Foods	5%	to 3 1/2%
Kelloggs Breakfast Foods	5%	to 3 1/2%
Chocolate bars	8%	to 3 1/2%
Gum	5%	to 4%
Soups	5%	to 3 1/2%
Cigarettes	5 1/2%	to 3 1/2%
Tobacco	7 1/2%	to 4%

150. The purpose of these reductions was to meet the lower prices available to a volume buyer under a cost-plus system. These lowered prices were available to all customers regardless of the volume in which they purchased (Evidence, pp. 206-11)."

In his evidence before the Commission Mr. Bower said that he did not feel that, prior to these reductions, Macdonalds Consolidated Limited was competitive in the case of what he called the larger and in-between accounts -- retailers who could qualify under purchase brackets providing for fees of between 3 and 5 per cent over cost -- as, at that time, the mark-up of Macdonalds Consolidated Limited was generally 5 per cent or over. Mr. Bower also gave the following testimony in regard to the trend of sales of Macdonalds Consolidated Limited in 1957:

"Q. Why did Macdonalds Consolidated Limited reduce its prices, or reduce the price of cigarettes, chocolate bars, and chewing gum at the time?

A. We did it due to complaints from our own customers who advised us that these cost-plus fellows were selling at prices -- some were getting a price of $2.79, and there was a lot of different prices, and we began to lose our volume of business, that is, on the total business.

Q. How much business did you lose, or what was the volume?

A. The full effect of it was felt in the last six months of 1957. Up to the first six months of the year we had been showing a twelve percent increase in business, and by the end of the year -

Q. Twelve percent over what period?

A. Over the previous year, and by the end of the year we were down to where we just barely made an increase of perhaps one percent, and our business had been slipping.

BY THE CHAIRMAN

Q. Did you mean your total business by the end of the year -

A. By the end of the year it was one percent over 1956, and since making these changes our volume of business has increased in 1958 - over and above the twelve percent increase of 1957, we are now showing a twenty or twenty-two percent increase, which would substantiate the fact that we have got our customers back and have increased our volume."

(Hearing, pp. 36-37)

The price reductions for the commodities listed above were made by the Edmonton branch of Macdonalds Consolidated Limited on January 6, 1958. In the case of popular brands of cigarettes the price was reduced from \$2.85 per carton of 200 to \$2.79; in the case of chocolate bars the price was reduced from \$1.83 per box to \$1.75 and in the case of chewing gum the price was reduced from 79 cents per box to 78 cents.

The cost prices of these commodities at the time to Macdonalds Consolidated Limited and to other wholesalers, all of whom bought on the same basis from the manufacturers, were as follows:

Cigarettes, popular brands (cartons of 200)	\$2.696 or \$13.48 per thousand
Chocolate bars (boxes of 48-5 cent or 24-10 cent bars)	1.69
Chewing gum (boxes of 20 packages)	.75

In the Statement of Evidence the margins secured by Macdonalds Consolidated Limited with the selling prices charged prior to January 6, 1958 and with the prices put into effect on January 6 are calculated more exactly for cigarettes, chocolate bars and chewing gum than in the table given above in which round percentage figures are given. The following paragraphs are taken from the Statement of Evidence:

"39. It would appear that these percentages are based upon the cost of the goods in question to Macdonalds Consolidated Limited and that they are approximate. Taking the cost prices and selling prices as reported by Macdonalds Consolidated Limited . . . the actual percentage mark-up on cost price is as follows:

	January 1, 1957 to January 3, 1958	January 6, 1958 to January 31, 1958
Cigarettes (popular brands)	5.55%	3.33%
Chocolate Bars	8.28%	3.55%
Chewing Gum	5.33%	4.00%

Taken as a percentage of selling price, the margins would be as follows:

	January 1, 1957 to January 3, 1958	January 6, 1958 to January 31, 1958
Cigarettes	5.4%	3.37%
Chocolate Bars	7.65%	3.43%
Chewing Gum	5.06%	3.85%

40. The figures for cigarettes relate only to the so-called popular brands which were sold at \$2.85 per carton in 1957 and at \$2.79 per carton since January 6, 1958. By calculating the mark-up on cigarettes on the basis of a cost price of \$2.70 per carton of 200 rather than \$13.48 per thousand, which is the actual cost, the percentage mark-up appears slightly less than it actually is. At a selling price of \$2.85 per carton, the percentage mark-up in relation to sales when based on a cost price of \$2.70 per carton is 5.26 per cent. When the cost is taken as \$13.48 per thousand, the margin becomes 5.4 per cent. At a selling price of \$2.79 per carton, the figures become 3.22 per cent and 3.37 per cent, respectively. These percentages do not include the cash discount of .45 of one per cent allowed by Macdonald Tobacco Inc."

5. Actions Taken by Other Wholesalers Following Reductions in Prices by Macdonalds Consolidated Limited

The price reductions made on January 6, 1958 by Macdonalds Consolidated Limited, particularly in the case of popular brands of cigarettes, were quickly noted by other wholesalers not only

in the city of Edmonton but in the Edmonton district and actions were taken to meet the new competitive situation. Evidence relating to actions of the following wholesalers is reviewed in the Statement of Evidence.

Horne & Pitfield Ltd., Edmonton

On January 8, 1958, Horne & Pitfield Ltd. reduced its selling price on popular brands of cigarettes from $2.85 per carton of 200 to $2.79 for customers not sold under the cost-plus plan. The selling price of chocolate bars was reduced to $1.75 on January 13, 1958 but no change was made in the price of gum. The conditions applying under the cost-plus plan are given as follows in the Statement of Evidence:

> "53. Prior to January 13, 1958, cigarettes were being charged under the cost-plus system at $2.70 per carton plus the appropriate profit and service charge, which, according to the Return of Horne & Pitfield Ltd., dated February 26, 1958 (Exhibit 35), amounted to five per cent for the average buyer, making their net cost on cigarettes $2.835. The Return continues at page 4 as follows:
>
> '. . .
>
> However, on January 13th, we found our opposition had severely cut some of these prices and these stores that we were supplying under the large buyer system complained that we were 4¢ per ctn. too high on popular brands of Cigarettes and 2¢ per ctn. too high on Chocolate Bars. We bill all our goods through I. B. M. machines, and in order to make our price competitive after our profit and service charge was added, we had to reduce our cost on Cigarettes to 2.66, making our average net selling 2.793, and on Chocolate Bars to 1.67, making our average net selling 1.7535. All cost plus stores are charged 2% on cost for drop shipments direct to them from the manufacturer irregardless of the commodity involved.
>
> . . .'
>
> 54. The evidence indicates that a gap of five days occurred between January 8, 1958, when Horne & Pitfield Ltd. lowered its price on cigarettes and January 13, 1958, when it lowered its price on chocolate bars. According to Mr. Gahn, he did not become aware that the Company's competitors had lowered their prices on chocolate bars until January 13 (Evidence, p. 271). However, he was aware of price

competition in the case of cigarettes on January 8 and lowered prices accordingly. The competition was coming from Macdonalds Consolidated Limited, and Mr. Gahn was unaware of any other competitors who at that time were underselling Horne & Pitfield Ltd. (Evidence, pp. 272-73).

55. On January 12 or 13, Horne & Pitfield Ltd. reduced their cost on cigarettes for purposes of selling under the cost-plus plan from $2.70 per carton to $2.66 per carton, although the actual cost to Horne & Pitfield Ltd. remained at $2.696, in order to bring their prices under the cost-plus plan in line with Macdonalds Consolidated Limited. At the same time, the Company also reduced its cost on chocolate bars from $1.69 to $1.66 per box (Evidence, p. 275). These costs have since been restored to their former figure. In the case of cigarettes, it was done in two stages; towards the end of February the cost was increased to $2.68 and, early in March, to $2.70 (Evidence, pp. 275-76). However, the restoration of these costs did not result in the loss of any cost-plus accounts (Evidence, p. 277).

56. Mr. Gahn also indicated in his evidence that a certain amount of underselling in cigarettes is always present with particular accounts being offered special prices. . . ."

Ponoka Wholesale, Ponoka

Ponoka Wholesale is a wholesale tobacco and confectionery business originally established about 1914 and carried on as a single proprietorship since 1946 by Mr. Charles E. Lewis. The town of Ponoka is about 65 miles south of Edmonton. Mr. Lewis estimated that cigarettes accounted for 51 per cent of his total sales, chocolate bars for 7 1/2 per cent and gum for 2 1/2 per cent. Other lines handled included paper goods, matches, pickles and coffee, which are sold to restaurants.

Throughout 1957 Mr. Lewis sold the popular brands of cigarettes at $2.85 per carton of 200, chocolate bars at $1.83 per box and gum at 83 cents per box. On or about January 13, 1958, Mr. Lewis reduced the selling price of popular brands of cigarettes to $2.80 per carton, the price of chocolate bars to $1.75 per box for orders of 10 boxes or more and to $1.80 per box for smaller orders and the price of gum to 80 cents per box.

Mr. Lewis said that he made the reductions in prices to meet competition from wholesalers in Edmonton who sell to a very limited extent in the territory in which he operates. He was unable to say whether he had lost any business as a result of the competition in

price..

Central Wholesale, Limited, Vegreville

Central Wholesale, Limited carries on a wholesale business in groceries, tobacco and confectionery at Vegreville about 70 miles east of Edmonton. Sales of cigarettes account for about 21 per cent of total sales and sales of chocolate bars and chewing gum for about 3 3/4 per cent.

Prior to January, 1958 Central Wholesale, Limited sold popular brands of cigarettes at $2.85 per carton, chocolate bars at $1.89 in single box lots and at $1.83 in quantities of from 30 to 50 boxes. Chewing gum was sold at 86 cents in single box lots and at 83 cents in lots of 30 boxes or more.

When Central Wholesale, Limited found that there had been a general reduction in prices of popular brands of cigarettes, chocolate bars and gum by Edmonton wholesalers it reduced its prices to $2.79 for cigarettes, $1.75 for chocolate bars and 79 cents for gum.

C. W. Boon & Co., Limited, Edmonton

C. W. Boon & Co., Limited has operated a wholesale tobacco and confectionery business in Edmonton for approximately 35 years. Its sales territory extends as far west as Jasper, Alberta, east to Lloydminster, south to Calgary and intermittently north as far as Aklavik. In 1957, sales of cigarettes formed over 66 per cent of the total sales.

Prior to January, 1958 C. W. Boon & Co., Limited was selling the popular brands of cigarettes at $2.85 per carton, chocolate bars at $1.86 to $1.89 per box, depending on quantity, and chewing gum at 83 cents to 86 cents per box. On January 16, 1958 prices were reduced to $2.79 for cigarettes and to $1.79 for chocolate bars. No change was made in the price of chewing gum.

Mr. Rooney, President, C. W. Boon & Co., Limited, gave the following explanation of the reduction of the price of cigarettes:

"Q. Why did you make this change in price?

A. Well, it is a matter of staying in business. We didn't want to make it, we didn't like to make it, but when your customers come and tell you you are a good fellow for a long time, but if you don't

meet the price they are going to deal elsewhere --

Q. When you speak of meeting price, what price were you speaking of?

A. $2.79.

Q. Were you told by some of your customers that your competition was selling at $2.79?

A. Yes; we have had their circulars.

Q. Did it indicate that more than one wholesaler was selling at this price?

A. When we changed?

Q. Yes?

A. There were three of them.

Q. Who were they?

A. Horne and Pitfield, Macdonalds, and Scott, National Fruit."

(Evidence, p. 67)

With respect to the price of chewing gum, Mr. Rooney said:

"Q. Why did you decide not to change the price of gum?

A. Well, gum is a minor item, it is not the same volume. The storekeeper is very conscious of the price of cigarettes, that is the larger part of his business; he is also very conscious of the price of chocolate bars; but on gum, we sell a lot of gum to small cafes, and that, who don't buy much, and they are not concerned about it, so we thought we would ride along on gum."

(Evidence, p. 73)

Mr. Rooney also gave evidence that before the reductions were made in the prices of cigarettes and chocolate bars three or four

accounts had been lost but two were regained subsequently. Mr. Rooney said that the number of employees was being reduced:

"Q. How many employees do you have?

A. About 37, I would say.

Q. And has there been any change in the number since January 1st of this year?

A. Yes, we are working with about three less staff now.

Q. Why is that?

A. Well, we are just trying to save money, we can't break even, but we are trying to keep as solvent as we can.

Q. Did you let three employees go?

A. Yes.

BY THE CHAIRMAN:

A. Is that due to this price of cigarettes and chocolate bars?

A. Yes. We are planning on another four at the end of March; we hope we can eliminate about another four."

(Evidence, p. 73)

Mr. Rooney expressed the opinion that C. W. Boon & Co., Limited, could not continue to operate at the prices then prevailing:

"Q. Another general question: From your knowledge of the business do you think it is possible for a wholesaler to make money at the prices that have been prevailing since these prices were put into effect?

A. Well, I can't speak for the other operators, but I can speak for C. W. Boon Company, that if it continues I will have to close up and rent the building.

Q. You have not been making money, you have lost?

A. We have lost $6,000."

(Evidence, p. 83)

When he appeared before the Commission Mr. Rooney said that by the end of June, 1958 the loss had increased to $7,900 (Hearing, p. 218).

Prior to making the reduction in prices in January, 1958 C. W. Boon & Co., Limited had been selling cigarettes to the Canadian National Institute for the Blind at $2.80 per carton and some sales were made to certain far northern accounts at the same price.

Smokers' Supplies Limited, Edmonton

Smokers' Supplies Limited carries on a wholesale business in tobacco and confectionery and to a small extent in sundries. The greater part of the business of Smokers' Supplies Limited is in the city of Edmonton, but it has some accounts in nearby towns and it has done some business in the Northwest Territories.

The evidence shows that 80 per cent or more of the business of Smokers' Supplies Limited consists of the sale of cigarettes and that 10 to 15 per cent of the company's business consists of the sale of chocolate bars and chewing gum.

Prior to January, 1958 Smokers' Supplies Limited sold the popular brands of cigarettes at $2.85 per carton. Chocolate bars were sold for $1.89 per box or for $1.83 in lots of 30 boxes or more. Chewing gum was sold at 89 cents and at 83 cents for quantity shipments. On January 15, 1958 Smokers' Supplies Limited reduced its selling price of cigarettes to $2.79 per carton and its price of chocolate bars to $1.75. The price of chewing gum was reduced to 75 cents for a period of two weeks and then was restored to the price previously in effect.

Between 1955 and 1958 Smokers' Supplies Limited supplied cigarettes to firms engaged on DEW Line undertakings. One large contract was secured on a competitive tender of $2.76 per carton and this price was given on other orders from certain firms engaged in northern operations after the termination of the first contract. In 1957, Smokers' Supplies Limited was also selling cigarettes to seven or eight of its better customers at $2.80 per carton.

In regard to the continued operation of the company, Mr. Cipin, Secretary-Treasurer, gave the following evidence in the inquiry:

"Q. Assume that the wholesale price of cigarettes and gum and chocolate bars remains as it is, what do you foresee the effect of this will be on the business of your company?

A. As far as our company is personally concerned, as I have already indicated, we will have to reduce our staff, or we would have to consider the possibility of selling the business at a not very tidy profit, because we would not get a very good price in the light of the small return that would be available if this price of$2.79 per carton was available, because as I have already stated our cigarette sales represent about 80 per cent or better of our sales, and in this business, if you are going to sell it, you have to offer your stock in trade, a certain amount of good will, but it is not a very attractive investment for anybody at the present time under the present circumstances. . . . "

(Evidence, p. 103)

During his appearance before the Commission, Mr. Cipin said that Smokers' Supplies Limited had an operating loss during the first six months of 1958 (Hearing, p. 131).

The Newhouse Wholesale Limited, Edmonton

The Newhouse Wholesale Limited was incorporated about 1919 and carries on a general wholesale grocery business, including groceries, tobacco and confectionery, patent medicines and certain allied lines. The territory in which the company does business extends south of Edmonton to Wetaskiwin, west to Jasper, east to the Saskatchewan border and north to Aklavik. It was estimated that about 35 per cent of the business of the company consists of sales of cigarettes, tobacco and confectionery.

During 1957 the company sold popular brands of cigarettes at $2.85 per carton, chocolate bars at $1.89 per box and $1.83 in quantity lots, and chewing gum at 86 cents per box and 83 cents in quantity lots.

On or about January 15, 1958 The Newhouse Wholesale Limited reduced its selling price of cigarettes to \$2.79 per carton, its selling price of chocolate bars to \$1.75 and its selling price of chewing gum to 79 cents. These reductions were made after it was ascertained that the retail trade had been offered such prices by Macdonalds Consolidated Limited.

The Newhouse Wholesale Limited had profitable operations in 1953, 1954 and 1955 but the company showed a substantial loss on its operations in 1956 and a smaller loss in 1957. When asked about continued operations of the company, Mr. Jack Newhouse gave the following evidence in the inquiry:

"Q. What do you foresee for the future of your own business if these prices on cigarettes and confectionery continue to prevail?

A. I see a continual loss of profit to a point where we will show a fairly substantial loss on our operation without even taking our normal write-offs and reserves into consideration. My own feeling is that with the financial status of Newhouse Wholesale we could possibly hold on for a couple of years but we would have to pull our belts in, we would have to take a little cut ourselves in our own salaries; and it is conjecture on my part, it may mean cutting down our staff to a certain extent, it may or may not, if we continue to hold the volume, I can't see how we could possibly do the volume with any less staff than what we have. I don't think we could stand this type of price for more than a couple of years.

Q. You mean the result would be you would go out of business, then?

A. I would say so in two years, a full two years of operation at these profits and these prices that we would be forced to go out of business."

(Evidence, p. 140)

The Newhouse Wholesale Limited had followed a policy of permitting customers to place funds on deposit with the company in advance of the purchase of goods. On receipt of a deposit the customer was immediately credited with an allowance, which appeared to be one per cent of the amount deposited regardless of the length of time the money remained before being used for the purchase of goods. Mr.

Jack Newhouse stated that there are now three or four accounts receiving allowances in this way.

Edmonton Wholesale Tobacconists Limited, Edmonton

Edmonton Wholesale Tobacconists Limited began operations as an unincorporated firm about 1914 and was incorporated about 1931. It operates a wholesale business in cigarettes and other tobacco products, confectionery and sundries in Edmonton. The evidence indicates that sales of cigarettes amounted to approximately 75 per cent of the company's total sales in 1957.

Edmonton Wholesale Tobacconists sold the popular brands of cigarettes at $2.85 per carton throughout 1957. On January 16, 1958, after the company received information about reductions in prices of cigarettes by other wholesalers, it reduced its selling price of cigarettes to $2.79 per carton.

Edmonton Wholesale Tobacconists Limited had a net operating profit in 1957. A net loss was incurred on operations during the first quarter of 1958.

The Independent Wholesale Limited, Edmonton

The Independent Wholesale Limited was incorporated in 1942. It carries on a wholesale business in groceries, cigarettes and tobacco, confectionery and sundries. The territory in which it does business extends west to Jasper, east to St. Paul, south to Wetaskiwin and north to Barhead. The Manager of the company, Mr. M. Panchyshyn, estimated that about 25 per cent of total sales consisted of cigarettes.

During 1957 The Independent Wholesale Limited sold popular brands of cigarettes at $2.85 per carton, chocolate bars at $1.89 per single box, $1.86 for 30 or more boxes and $1.83 for drop shipments. On January 20, 1957 the company reduced its selling price of cigarettes to $2.79 and its price of chocolate bars to $1.75 per box. When asked why these changes were made Mr. Panchyshyn gave the following evidence:

"Q. Why did you make those changes?

A. Because in order that we would not lose customers; we had to; we had calls from our customers that had been buying from us for years and they said, 'If

we don't get those prices we will go and deal where we can'; and that is why we had to meet those prices."

(Evidence, p. 159)

It was indicated that The Independent Wholesale Limited was considering reducing its staff because of a decline in profits due to the lower prices of cigarettes and chocolate bars. Mr. M. Panchyshyn testified as follows:

"Q. Will you be able to carry on your normal business operations with a reduced staff?

A. I believe so. Our sales in January dropped by over $2,000, and I haven't got the figures in February exact, but we dropped from last year $2,000, and I feel maybe that was because we did not fall in line until January 20. . . ."

(Evidence, p. 163)

When asked about future operations of The Independent Wholesale Limited Mr. M. Panchyshyn said:

"Q. . . . What do you foresee for the future of your business if cigarettes and confectionery continue to be sold at wholesale at the prices that now prevail?

A. Well, I feel that we are going to be on a downhill, because we definitely cannot stay in competition at the present prices unless we take some other means, you know, to follow, say replace it with some other lines or get sundry lines, or something like that; that is the only way one would be able to survive. But the way it is, on this basis, mind you, we don't like it at all, it is no good."

(Evidence, pp. 173-74)

CHAPTER III

COSTS OF DISTRIBUTION IN RELATION TO PRICE OF CIGARETTES

1. Operations of Macdonalds Consolidated Limited

The following summary of the operations of Macdonalds Consolidated Limited is based upon the description given in the Statement of Evidence.

Macdonalds Consolidated Limited was incorporated under the laws of the Dominion of Canada with Head Office in Winnipeg, Manitoba, and has branches in a number of Western Canadian cities, including the city of Edmonton, Alberta. The company carries on a general wholesale grocery business, including the distribution of tobacco and confectionery products, drugs and housewares, and acts as procurement and warehousing agent for Canada Safeway Limited. Merchandise procured for Canada Safeway Limited is billed from the warehouse of Macdonalds Consolidated Limited at the laid-down cost, plus 3 per cent, and this amount is subsequently adjusted to the actual out-of-pocket expenses attendant upon the distribution of the goods to Canada Safeway Limited. In other words, the operations of Macdonalds Consolidated Limited as a supplier of Canada Safeway Limited are designed to break even only and not to show a profit. Macdonalds Consolidated Limited is a wholly-owned subsidiary of Canada Safeway Limited.

The Edmonton branch of Macdonalds Consolidated Limited serves the territory south to Ponoka, east to Lloydminster, west to Jasper, north to Eaglesham, and does some business in the far north. In 1957, sales to independent merchants and to Canada Safeway Limited and affiliated companies were in the ratio of about 1:3. Warehousing costs of Macdonalds Consolidated Limited are apportioned for accounting purposes among Canada Safeway Limited, branch warehouses, and independent retailers, on the basis of the ratio that the sales to each bears to the total of the sales to all three (Evidence, pp. 250-51).

In the return of information to the Director made by Macdonalds Consolidated Limited and which is contained in Exhibit 30, the company listed ten items handled by the Edmonton branch which

carried the lowest mark-ups on sales to independent merchants. Taking this list and the price reductions made on January 6, 1958 a composite list of items having the lowest mark-ups can be made as follows:

	Margin on Cost Prior to January 6, 1958	Changes Made on January 6, 1958
Evaporated Milk	3%	
Coffee	4%	
Flour and Cake Mixes	5%	
Fruit Jars	5%	
Jelly Powders	5%	
Kraft Salad Dressing & Cheese	5%	
Biscuits	5%	
Sugar	5%	3 1/2%
Nabisco Breakfast Foods	5%	3 1/2%
Kelloggs Breakfast Foods	5%	3 1/2%
Chocolate bars	8%	3 1/2%
Gum	5%	4%
Soups	5%	3 1/2%
Cigarettes	5 1/2%	3 1/2%
Tobacco	7 1/2%	4%

2. Evidence as to Relative Costs of Handling Cigarettes by Wholesale Grocers

The Statement of Evidence contains the following review of the evidence of Mr. James E. Bower, Grocery Supply Manager, Edmonton branch, Macdonalds Consolidated Limited, relating to the manner in which orders for cigarettes were handled and the relative costs involved:

> "153. Mr. Bower described in some detail the various steps involved in handling cigarettes, chocolate bars and gum at the Edmonton branch of Macdonalds Consolidated Limited (Evidence, pp. 216-20). Representatives of the tobacco companies check the wholesaler's stock and then interview the

buyer in order to guide him in ordering so as to keep stocks fresh and up-to-date. The cigarettes are delivered by a common carrier and unloaded at the warehouse at the expense of the tobacco company. They are then taken to the packing room, checked by the packing room man and stored either in the reserve area or in the assembly space where tobacco and other orders involving goods in less than case lots are assembled. In the assembly space, the cases are opened and the cigarettes stacked by cartons in bins, so as to keep the different brands separate.

154. When an order comes in which includes cigarettes, it is written up by the telephone salesman if it is received by telephone, or typed if it comes in the mail. Three copies are made, one of which is for the packing room, which assembles the cigarettes, and any other items in less than a case lot. This portion of the order is then added to the rest of the goods that have been assembled from the warehouse and shipped to the customer.

155. In the case of chocolate bars and gum, a stock card system is used, and stocks are counted once a week so that the buyer may renew stocks when necessary. Chocolate bars and gum are also removed from their cases and stacked in bins, and the filling of an order involving chocolate bars and gum is handled in the same way as an order involving cigarettes.

156. Macdonalds Consolidated Limited does not keep any record of operating costs as they relate to individual items or groups of items, and was, therefore, able to furnish no specific information on the cost of handling cigarettes, chocolate bars and gum (Evidence, pp. 220-21). When asked if the margin of nine cents per carton covered the operating costs on cigarettes, Mr. Bower made the following reply:

> 'A. To the best of our knowledge we believe it does, but without an actual test we couldn't say that it does; to the best of our knowledge it does.
>
> Q. When you say to the best of your knowledge, what is your basis for that statement?
>
> A. Well, I feel that as cigarettes and tobacco are a large portion of your total volume, total dollar

volume, that if you are losing [on] that volume it would have reflected in your profits, on your over-all profits, you would see a reduction of your profits. However, this year our profits have been somewhat better than they were last year, at which time we didn't have the same price on cigarettes, we had a higher price on cigarettes.

Q. Your over-all profit, that is, net profit on your total operations for the accounting periods in 1958 is higher than in the corresponding accounting periods in 1957?

A. That is right.'

(Evidence, pp. 222-23)

157. Mr. Bower also stated in evidence that the Edmonton branch of his Company had shown a general increase in total volume of business since the beginning of 1958 over the corresponding period in 1957, and that more accounts were being sold. He also indicated that an increase in tonnage as well as in dollar volume had taken place (Evidence, pp.223-25).

158. Mr. Bower stated in evidence that cigarettes turn over at a relatively rapid rate. They are purchased weekly, although the entire stock does not turn over in that time. Sugar also turns over at a rate similar to that of cigarettes. Canned milk and canned soups also turn over almost as rapidly, although, due to distance from the source of supply, it is necessary to carry a four-week inventory (Evidence, p. 227).

159. Mr. Bower was invited to compare operating costs for handling sugar and for handling cigarettes, and gave the following evidence:

'Q. Now, with respect to sugar, dollar-wise is the amount of sugar handled in a year greater than cigarettes; in other words, what is the relationship between the sales of cigarettes and the sales of sugar?

A. I would say that the dollar value of cigarettes would be greater than that of sugar, but I am not

prepared to say that is so, but I do believe that it is; we would have to check the records.

Q. Do you consider cigarettes as a low cost item, that is, a low operating cost item?

A. Yes, we feel they are.

Q. Why?

A. Because a case of cigarettes which weighs 40 pounds is worth approximately $135. A sack of sugar which weighs 100 pounds is worth approximately $10.

Q. What type of packages do you handle sugar in?

A. It comes in 100-pound bags; it comes in bales of ten fives, and ten tens.

Q. Those are cartons of sugar?

A. No, sacks or bales.

Q. Not cartons?

A. There are some cartons, that is, brown sugar and yellow sugar comes in thirty 2-pound packages to the case, but the bulk of the sugar is in sacks or bales.

Q. Does it cost more to handle sugar than cigarettes?

A. We feel that it does.

Q. What is your basis for that statement?

A. Well, after all, when you handle sugar you are handling 100 pounds, and in the case of cigarettes it is only 40 pounds.

Q. What is the selling value of a hundred pound bag of sugar"

A. Well, our mark-up since we have reduced our prices is 3-1/2 per cent.

Q. Are there any other items that are comparable with cigarettes from the point of view of handling in the warehouse?

A. You mean high value items that don't take up too much space?

Q. Any other items that would compare with cigarettes; what about chocolate bars?

A. They are in a similar category. Mind you, they are not worth quite as much as cigarettes are.

Q. Is there more care required in breaking bulk and repacking for shipment than there is in the case of cigarettes?

A. I would think so, yes.

Q. Why would this be?

A. In chocolate bars?

Q. Yes.

A. Well, I think they are more perishable and more subject to breakage than cigarettes are.

Q. What is your present margin in cents for chocolate bars?

A. Six cents.

Q. In view of the fact that somewhat more care has to be taken in the handling of chocolate bars as against the handling of cigarettes, do you know if this six-cent per carton margin covers your operating expenses?

A. No. As I say, we would have to run a test in order to accurately answer your question.

Q. So that you do not know whether the margin is sufficient to cover your operating expenses?

A. No, I don't.

Q. Now, does that also apply in the case of cigarettes?

A. Yes.

Q. Does it also apply to the case of gum?

A. Yes.

Q. For that matter, does it also apply in the case of many of your other items?

A. It could apply to many items. As we pointed out we handle three to four thousand items, and our profit picture is taken on the general business, on the over-all business, and not on individual items.'

(Evidence, pp. 227-30)"

Between the time Mr. Bower gave evidence in the inquiry and the date of the hearing held by the Commission, Macdonalds Consolidated Limited made a test as to the amount of warehouse space occupied by selected items of merchandise, the average number of weeks stock of each item was carried, and then compared the gross profit for the same amount of warehouse space for the selected items with that secured from cigarettes with the margin established on January 6, 1958. The results of the test were filed with the Commission as Exhibit H-1, which is reproduced in the Appendix. It will be seen from this exhibit that the turnover of cigarettes is high compared with almost all other items. Stock is carried only for a week and of the selected items only sugar has as rapid a turnover. Sugar, however, is much more bulky in terms of dollar value per unit of warehouse space. Although the mark-up for sugar was slightly higher than that of cigarettes after the changes made on January 6, 1958, warehouse area which will produce a gross profit of 72 cents in a four-week period in the case of sugar will provide a gross profit of $8.12 in the case of cigarettes. In the case of cornflakes, for which a two-week stock is carried and which have a much lower unit value than cigarettes, a warehouse space which will yield a gross profit of 58 cents in a four-week period would yield $46.04 in the case of cigarettes. Only in the case of some items of toiletries, such as hair cream which have a high unit value and small bulk, with a mark-up several times that of cigarettes, does the gross profit per unit of warehouse space exceed that of cigarettes.

Mr. Bower expressed the following opinion as to the relative profitability of cigarettes when he appeared before the Commission:

"Q. Now, Mr. Bower, in your opinion did Macdonalds Consolidated Limited make a profit selling cigarettes at this price over this period; that is, since the price of cigarettes was decreased in January of 1958 has Macdonalds Consolidated Limited made a profit?

A. After taking this test and also taking some check on labour costs, we feel that we are making a profit on cigarettes, as the cost of handling cigarettes is very small in comparison to other bulky items, and they take up a lot less space, and they turn over a lot more quickly, - we have sold the goods before we have even paid for them - the cigarettes are actually sold before we pay for them.

BY THE CHAIRMAN

Q. You mean, you need no money to carry them?

A. Practically no money."

(Hearing, p. 48)

In 1957 the Edmonton branch of Macdonalds Consolidated Limited moved into a new building and for a time two warehouses were being operated. Mr. Bower thought that operating expenses in 1957 had been increased because of this and also because costs tend to be higher when beginning a new operation. Mr. Bower testified that operating expenses had been reduced in 1958:

"Q. Is or is not your operating expense coming down?

A. Yes, they are. The last period it was 4.97.

Q. So it had come down from 5.64 to 4.97 from December 31st?

A. Yes, and we feel it will level off at about four and a half percent.

Q. Even with the depreciation on a new building?

A. Yes.

(Hearing. p. 50)

The Statement of Evidence also contains a summary of the evidence given by Mr. A.N. Gahn, Manager of the Edmonton branch of Horne & Pitfield Ltd., in regard to the handling of cigarettes by that company:

"160. Mr. Gahn also described the steps involved in handling an order for cigarettes at Horne&Pitfield Ltd. in Edmonton. When the order is received, either from a salesman, over the telephone, or by order form under the cost-plus system, it goes first to the I. B. M. room where the billing and invoicing is done. Packing room items (i.e. cigarettes and other items normally handled in broken case lots, including chocolate bars and gum) are invoiced separately. This invoice goes to the packing room where the goods are assembled and packed in a shipping case and sent out to the shipping floor (Evidence, pp. 288-89). Mr. Gahn explained that while salesmen will take orders for cigarettes when calling on a customer, cigarettes are demand items, and salesmen are encouraged to devote their selling time to items requiring some sales effort to promote (Evidence, pp. 287-88). Travelling salesmen call only on the normal mark-up customers; i.e., those not buying under the cost-plus plan. Cost-plus customers must order on a weekly basis by order form.

161. Cigarettes are delivered to the Horne & Pitfield Ltd. warehouse and unloaded at the expense of the manufacturer. They are then checked and stored in the re-pack room, where the cases are opened and the cartons of cigarettes removed and stacked in bins (Evidence, pp. 289-90).

162. Mr. Gahn also stated in his evidence that Horne & Pitfield Ltd. has no record of costs of handling any individual items or groups of items (except fresh fruit and frozen foods (Evidence, pp. 283-84)). He gave the following evidence concerning the cost of handling cigarettes:

Q. With respect to cigarettes do you know if in actual fact the margin of profit which you take on them covers the operation expenses relating to cigarettes?

A. I believe it does.

Q. And what do you base your belief on in that respect?

A. Due to the fact that the warehouse salaries involved in shipping or processing cigarettes are much lower than our other departments, space required for their handling is much less, normally for the same dollar value of merchandise the equipment necessary to process cigarette orders is of negligible value compared to other warehouse equipment, and also cigarettes are a demand item, they require no selling, no promotional work; many items do.

Q. Are your sales of cigarettes predominantly broken down into cartons?

A. They are.

Q. Do you make any sales in case lots?

A. A few.

Q. Would they be very few in relation to your total sales of cigarettes?

A. I believe they could be judged as such.

Q. From what you have mentioned in connection with the handling of cigarettes in the warehouse it would appear that costs are lower than the costs would be for some other items?

A. Yes, they are.

Q. But you don't know how much lower?

A. No, I do not; that is, specifically I don't know.

. . .

Q. Is there not a considerable handling involved in assembling an order of cigarettes?

A. Quite the contrary; it is very small as far as handling is concerned.

Q. Is it not a case where they have to handle each carton in packing?

A. Well, in handling ten cartons of cigarettes it would be like picking up ten books, it is easy to pick up ten books, easier to pick up ten books than ten cases of books.

Q. It would be much quicker to handle 50 cartons of cigarettes in a case, I was thinking, than to handle 50 cartons separately?

A. Yes, it would, but by the same token it would be easier to ship 50 cartons of cigarettes than 50 cases of baby food.

Q. Yes, they are different products.

A. That is correct, and yet our profit on our baby food is quite small.

Q. What is your margin?

A. It is 11 cents a case on baby foods.'

(Evidence, pp. 284-86)"

In his evidence before the Commission Mr. Gahn said that approximately 40 to 45 per cent of the sales of the Edmonton branch are made under cost-plus plans. Mr. Gahn also reaffirmed his opinion given in evidence in the inquiry that cigarettes could be handled profitably with a low mark-up.

"Q. And your percentage of three percent shown in your schedule, when cigarettes are included you make a profit on those cigarettes selling at a three percent mark-up?

A. We do.

BY THE CHAIRMAN

Q. Is that a matter of opinion or have you verified that?

A. Yes.

Q. You have checked it by actual costing?

A. Yes.

Q. And you have a complete costing system, have you?

A. No, this was a shot in the dark to see whether or not various commodities or products would be profitable if sold on a three percent basis if lumped together, and we analyzed various accounts over a three-month period and found out that they were.

Q. And did you analyze cigarettes apart from other items?

A. No, I would say that cigarettes are probably carrying a share of the overhead of some other items.

BY MR. MACAULAY

Q. That is, they possibly carry a share of the overhead of other items that do not turn over so quickly?

A. Yes.

Q. And that take more space?

A. Yes.

Q. You do not mean it was a shot in the dark and that you did not do any research?

A. No, what I mean was that we do not do it every day of the week - that is not included in our accounting system. "

(Hearing, pp. 150-52)

CHAPTER IV

CONCLUSIONS

1. During 1957 competitive conditions in the wholesale trade in groceries, tobacco and confectionery in the Edmonton territory were affected significantly by the development of cost-plus plans for the distribution of goods to retailers by several wholesale grocery firms. Under the cost-plus system of distribution, retailers who accepted certain conditions as to time and form of ordering and delivery and paid cash could secure their goods at the invoice cost to the wholesale grocer plus a service charge which diminished as the volume of weekly or monthly orders increased. In a general way, it may be said that such service charges ranged from 6 to 6 1/2 per cent on purchases by retailers buying in the lowest volume brackets, to 3 to 3 1/4 per cent for retailers buying in the largest volume brackets.

2. Cost-plus systems of merchandising had been introduced in the Edmonton territory by one or two wholesale grocers prior to 1957 but the competitive significance of this system of merchandising increased in the spring of 1957 when Western Grocers, Limited and its subsidiary, H. H. Cooper Limited, began seeking customers on this basis in competition with Horne & Pitfield Ltd., which had been operating a cost-plus plan since 1956.

3. While the evidence in the inquiry suggests that at some stage in the development of cost-plus systems of merchandising tobacco products and confectionery were not sold on the same basis as other products, although included for the purpose of determining the volume bracket, it is clear that, at least since the introduction of the cost-plus plans by the Edmonton branches of Western Grocers, Limited and H. H. Cooper Limited in the spring of 1957, cigarettes and confectionery have been included in cost-plus plans on the same basis as grocery items.

4. Macdonalds Consolidated Limited, a wholly-owned subsidiary of Canada Safeway Limited, acts as a procurement and warehousing agent for the latter company and also conducts a general wholesale grocery business with independent merchants.

Macdonalds Consolidated Limited supplies merchandise to Canada Safeway Limited at invoice cost plus 3 per cent, subject to readjustment when actual expenses of such business are lower. In its sales to independent merchants Macdonalds Consolidated Limited competes with other wholesale firms and pursues a policy of having one price for all customers, in contrast with the system of prices varying with volume of purchases under the cost-plus plan of merchandising.

5. During 1957 the Edmonton branch of Macdonalds Consolidated Limited found that the volume of business with independent merchants was not showing the expansion which had been shown consistently in previous periods and a decline rather than an advance in sales was the result noticed in the latter half of 1957. The company conducted a survey in 1957 of its business with independent merchants and concluded that it was losing sales with medium and large accounts because of the purchase terms offered under cost-plus plans of some of its competitors. As Macdonalds Consolidated Limited was operating under a one-price system in selling to independent merchants it could not compete with the more favourable prices available in the higher volume brackets of the cost-plus plans except by reducing its prices to all customers.

6. On January 6, 1958 the Edmonton branch of Macdonalds Consolidated Limited made the following reductions in the margins (shown as a mark-up as a percentage of cost) of eight lines of goods:

Sugar	5% to 3 1/2%
Nabisco Breakfast Foods	5% to 3 1/2%
Kelloggs Breakfast Foods	5% to 3 1/2%
Chocolate bars	8% to 3 1/2%
Gum	5% to 4%
Soups	5% to 3 1/2%
Cigarettes	5 1/2% to 3 1/2%
Tobacco	7 1/2% to 4%

These eight lines were regarded as "traffic" items which were in steady demand in significant volume and the prices of which would be particularly noted by the retail merchant, influencing him to place his general grocery business with the supplier having the most advantageous prices for such items.

7. The purpose of the reductions made by Macdonalds Consolidated Limited on January 6, 1958 was to meet the price competition of the cost-plus systems of merchandising. That the

reduction in prices were made for this purpose is not questioned in the Statement of Evidence and the Director states that there is no evidence that the policy of Macdonalds Consolidated Limited in making reductions in the selling prices of cigarettes, chocolate bars and chewing gum at its Edmonton branch is designed to have the effect of destroying competition or eliminating a competitor.

8. However, it is alleged in the Statement of Evidence that the prices of cigarettes, chocolate bars and chewing gum established by Macdonalds Consolidated Limited are unreasonably low and that in the case of cigarettes the reduced prices will make it difficult, if not impossible, for smaller independent wholesalers to compete in the sale of such products and will result in the elimination of some of such wholesalers. The reduced prices on chocolate bars, it is alleged, will aggravate the situation. In the Director's view the policy of Macdonalds Consolidated Limited in selling at such prices has had and will continue to have the effect of substantially lessening competition and eliminating competitors in the Edmonton, Alberta, area.

9. The Statement of Evidence advances a number of reasons for considering that the reduced prices of Macdonalds Consolidated Limited are unreasonably low. As the argument before the Commission was concerned almost entirely with the price of cigarettes, and as the fullest evidence relates to this commodity, the appraisal may be similarly directed. The reasons put forward in the Statement of Evidence may, therefore, be considered in turn.

(a) The reduced prices provide a lower mark-up than the average gross profit secured by Macdonalds Consolidated Limited on all sales made to independent merchants in 1957 and a lower mark-up than the average operating expense ratio on such sales in the same year. The company's average gross profit for 1957 was 5.38 per cent of sales (6.19 per cent with allowances and discounts) and the average operating expense ratio was 5.64 per cent of sales to independent merchants.

The range of products handled by a general wholesale grocer is very wide. In the case of Macdonalds Consolidated Limited it was stated that the number of items handled totalled about 4,000. It is reasonable to conclude that with such a wide range of items there would be differences of some magnitude between the costs of distribution (selling, warehousing and delivery) in handling commodities of various types

and values. In other words, costs of some products would be above the average, costs of others would cluster about the average and there would be others whose costs would be below the average.

It would not be feasible for wholesale grocers to attempt to determine the cost of distribution for individual items among the thousands which are handled and, apart from test examinations of the kind described in the evidence of Messrs. Bower and Brown of Macdonalds Consolidated Limited and Mr. Gahn of Horne & Pitfield Ltd., reliance is placed upon experience in dealing in different lines of goods which discloses ease of handling, rapidity of turnover, selling effort required, unit value in relation to space occupied and other relevant factors.

For the year 1957, the Edmonton branch of Macdonalds Consolidated Limited had operating expenses on sales to independent merchants amounting to 5.64 per cent of sales. The operating expenses in 1957 were stated to have been abnormally high because a shift was made to a new warehouse and for a time two warehouses were being operated. Operating expenses in the first half of 1958 were stated to have been reduced to 4.97 per cent of sales and it was expected that a further reduction would be made to 4 1/2 per cent.

Prior to the reductions in prices made by Macdonalds Consolidated Limited on January 6, 1958, evaporated milk was being sold at a mark-up of 3 per cent on cost and coffee was being sold at a mark-up of 4 per cent on cost. Exhibit H-1 shows that a three-week stock of canned milk is carried by Macdonalds Consolidated Limited, compared with a one-week stock of cigarettes. A case of canned milk has a cost price of $7.20 compared with a value of $72.76 for cigarettes occupying the same warehouse space. In a four-week period the sale of canned milk will produce a gross profit of 29 cents, whereas the gross profit from cigarettes occupying the same area of stock room would be $9.72. Putting it another way, the gross profit on the sale of a case of canned milk is 21.6 cents, whereas the gross profit on cigarettes which can be warehoused in the same amount of space is $2.43. Mr. Gahn of Horne & Pitfield Ltd. made another comparison when he said that his company had a margin of 11 cents on a case of baby foods, whereas the gross profit on a single carton of cigarettes was 9 cents.

As the terms of sales of cigarette manufacturers are commonly 15 days net, and as the wholesaler's stock of cigarettes turns over weekly, it was pointed out by Mr. Bower that the cost of financing was less in the case of cigarettes than for those goods carried in stock for longer periods because cigarettes are sold before the wholesale grocer pays the manufacturer.

There appear to be reasonable grounds for believing that the cost of distribution of cigarettes by wholesale grocers is less than that for distributing some other commodities of a more bulky character and smaller unit value and that it is not unreasonable that cigarettes should be sold at a lower mark-up than the average operating cost of Macdonalds Consolidated Limited.

(b) The reduced prices of cigarettes, chocolate bars and chewing gum provide margins which are among the lowest margins secured by Macdonalds Consolidated Limited on the items which it sells to independent merchants.

The evidence indicates that cost of distribution per unit of value is less for cigarettes than for many other items handled by wholesale grocers. In the light of this evidence it is the opinion of the Commission that no conclusion with respect to the price of cigarettes can be inferred from the circumstance that the mark-up on cigarettes established by Macdonalds Consolidated Limited on January 6, 1958 was among the lowest range of its mark-ups rather than at some higher level. The evidence indicates operating costs in handling cigarettes are among the lowest experienced by Macdonalds Consolidated Limited and it would not be unreasonable for the mark-up to be similarly related.

Macdonalds Consolidated Limited acts as the purchasing and warehousing agent for Canada Safeway Limited with a mark-up of 3 per cent which may be reduced at times if actual costs of operation are lower. While the conditions of supplying its parent company differ considerably from those involved in supplying independent merchants, it must be the case that there are significant variations in the costs of handling the various items supplied to Canada Safeway Limited, yet the average cost is 3 per cent or less. This lends support to the position of Macdonalds Consolidated Limited that cigarettes can be handled profitably with a mark-up of 3 1/2 per cent in selling to independent merchants.

The evidence in regard to the cost-plus system of merchandising also suggests that a low-mark-up on cigarettes is not unreasonable as a feature of the operations of a wholesale grocer. In the case of one such plan in operation in the Edmonton territory, mark-ups ranging down from 4 per cent apply on weekly purchases by a retailer of $750.00 or more, with a mark-up of 3 1/2 per cent applying on weekly purchases of $1,000.00. These mark-ups, it should be noted, operate as the average mark-up on the entire range of items purchased at one time so that they become the average mark-up for items having higher costs of distribution as well as those having lower costs. Mr. Gahn of Horne & Pitfield Ltd. stated that his company had analyzed various accounts buying at cost plus 3 per cent and had found that the commodities purchased when lumped together gave an operating profit. His opinion was that cigarettes included in such purchases provided a larger return at 3 per cent mark-up than some other items. Such experience tends to confirm the belief expressed by Macdonalds Consolidated Limited that a mark-up of 3 1/2 per cent on cigarettes provides a profit in the company's operations.

(c) The prices of cigarettes, chocolate bars and chewing gum established by the Edmonton and Camrose branches of Macdonalds Consolidated Limited on January 6, 1958 were lower than the prices for the same articles at other branches of the company in Alberta, and higher margins prevailed at the other branches for such products.

The evidence in the inquiry does not disclose the operating conditions at branches of Macdonalds Consolidated Limited, other than Edmonton, or the competitive conditions in other territories where such branches operate as, for example, the competitive effects of cost-plus plans. The evidence does disclose that since at least January 1, 1957 the Medicine Hat branch of Macdonalds Consolidated Limited has been selling cigarettes at $2.80 per carton. This is a price only one cent higher than that established by Macdonalds Consolidated Limited at Edmonton on January 6, 1958 and had been in effect for more than a year before the price of $2.79 was set for Edmonton. The evidence also discloses that the Red Deer branch of Macdonalds Consolidated Limited had a price of $2.83 for cigarettes throughout 1957. This price was reduced to $2.81 in January, 1958.

The only conclusion which the Commission considers can be drawn from this particular evidence is that competitive situations in the various territories in Alberta where branches of Macdonalds Consolidated Limited operate have been different.

(d) The margins of profit on cigarettes, chocolate bars and chewing gum secured by the Edmonton branch of Macdonalds Consolidated Limited with the prices established on January 6, 1958 are considerably less than the average gross profit or the expense of doing business of other wholesalers in the Edmonton area, as indicated by the financial statements of those wholesalers from whom such statements were secured in the inquiry. The average gross profit in 1957 of seven wholesalers ranged from 5.98 per cent of sales to 7.12 per cent, and the average operating expenses of six incorporated firms ranged from 5.38 per cent of sales to 6.72 per cent.

Mention has already been made of the fact that the trade of the wholesale grocer embraces thousands of lines of varying character so that there is probably considerable variation in the operating costs over the wide range of articles. The business of tobacco jobbers, on the other hand, is highly concentrated in a few lines, with cigarettes constituting from 50 to 80 per cent of total sales. In view of the position which cigarettes appear to occupy in the trade of wholesale grocers, that is, being among the lost-cost items which are handled, it does not appear justifiable to reach any conclusion by comparing the margins taken by the Edmonton branch of Macdonalds Consolidated Limited in the sale of cigarettes and the average operating results of other wholesalers, including tobacco jobbers.

While the evidence indicates that the bulk of the sales of cigarettes by wholesalers in the Edmonton territory was made during 1957 at a price of \$2.85 per carton for the popular brands, some sales were made at lower prices, apart from the lower prices which resulted from the operations of the cost-plus plan. One tobacco jobber had secured a contract for commissary needs in connection with the DEW Line construction at a price of \$2.76 per carton and was supplying cigarettes at this price in 1957. While the jobber said that very little if any profit was made in selling at \$2.76, the fact that the tender was made indicates that it had been considered worthwhile to accept

business at this price. The same jobber was also supplying cigarettes to some accounts at a price of $2.80 in 1957, and this price also appears to have been charged in certain cases by other wholesalers. In some other cases a discount was given for prompt payment or credit given for funds placed on deposit which had the effect of reducing the price of cigarettes below the $2.85 price for customers securing such terms.

Although the Commission has already indicated that it does not consider that a valid comparison can be made of the average operating ratios derived from the handling of a wide variety of products with the margins applying to one product, it is of some interest to examine the statistics as to the average operating expenses of grocery wholesalers and tobacco and confectionery wholesalers which are issued biennially by the Dominion Bureau of Statistics. The available figures, which represent total operating expenses as a percentage of sales, are given in the following tables.

Total Operating Expenses of Tobacco and Confectionery Wholesalers, by Years and Regions
(Percentage of Sales)

Years	Maritimes	Quebec	Ontario	Prairies	British Columbia	Canada
1947	6.07	5.01	5.13	5.26	5.18	5.17
1949	6.05	5.79	5.55	5.68	5.77	5.65
1951	6.70	6.40	6.05	6.35	6.54	6.24
1953	6.73	6.59	6.43	6.66	6.74	6.53
1955	6.93	6.42	6.82	6.81	7.24	6.75

Total Operating Expenses of Grocery Wholesalers by Years and Regions
(Percentage of Sales)

Years	Maritimes	Quebec	Ontario	Prairie Provinces and B.C.	Canada
1947	6.60	6.85	6.09	5.91	6.34
1949	7.21	7.30	6.79	7.13	7.09
1951	7.07	6.82	6.71	7.22	7.01
1953	7.48	7.13	7.09	7.18	7.20
1955	7.56	5.72	6.40	7.18	6.82

Source: Dominion Bureau of Statistics, Operating Results of Food Wholesalers, 1947, 1949, 1951, 1953, 1955

It will be first noted that in 1947 average operating expenses of tobacco and confectionery wholesalers for Canada as a whole and for each region formed a smaller percentage of sales than was the case with grocery wholesalers. This situation has prevailed in each year reported and in each region except Quebec, Ontario and British Columbia(1) in 1955.

While total operating expenses of tobacco and confectionery jobbers have tended to be lower than the ratios for grocery wholesalers it will be seen that the expense ratios for tobacco and confectionery wholesalers have increased consistently from 1947 to 1955 for Canada as a whole and in each region with few exceptions. Although there have also been increases in the operating expense ratios of grocery wholesalers, significant departures from the upward trend will be noted, particularly in the case of Quebec and Ontario in 1951 and more significantly in 1955. In the case of the Prairie Provinces and British Columbia, operating expense ratios increased from 1947 to 1951 but decreased in 1953 and remained at the lower level in 1955.

For Canada as a whole the operating expense ratio of grocery wholesalers was more than 20 per cent greater than that of tobacco and confectionery wholesalers in 1947, but in 1955 the ratios for both types of wholesalers were almost the same. These developments, it should be noted, occurred in two distributive trades with different characteristics, the tobacco and confectionery wholesaler tending to have his sales concentrated in a relatively few lines and offering his customers considerable service by way of credit terms, solicitation of orders by salesmen, the offering of assistance in the selection of goods and the display of stock. The grocery wholesaler, on the other hand, has been seeking to find methods to reduce the amount of service by requiring the receipt of orders in a prearranged manner and limiting solicitation by salesmen. In the case of Macdonalds Consolidated Limited, for example, no salesmen are engaged in soliciting orders.

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(1) If it can be assumed that the ratio for B.C. grocery wholesalers alone approximated the combined ratio for the Prairie and B.C. grocery wholesalers shown above.

10. The Commission has carefully considered all the reasons given in the Statement of Evidence for the allegation that the prices established for cigarettes, chocolate bars and chewing gum by Macdonalds Consolidated Limited at its Edmonton branch on January 6, 1958 are unreasonably low, together with the relevant evidence, and it is the opinion of the Commission that the evidence relied on fails to establish that such prices are unreasonably low. It is the further opinion of the Commission that the reasons given by Macdonalds Consolidated Limited for making the changes in prices on January 6, 1958 are legitimate business reasons which are in keeping with normal competitive practice, and the Commission finds convincing the evidence given by representatives of Macdonalds Consolidated Limited and by the representative of Horne & Pitfield Ltd. that cigarettes can be handled profitably at low margins.

11. The conclusions which the Commission has reached with respect to the allegation of unreasonably low prices makes it unnecessary to attempt to arrive at definite conclusions as to the effects which have been produced by the prevailing competitive prices or which may be expected to be produced, because the essence of the allegation is in the charge of unreasonably low prices. However, it may be remarked that in the ordinary course there would be no reason to consider that prices arrived at by normal competitive processes would produce effects which would not be in the public interest and which would not be conducive toward the maintenance of healthy competition rather than toward the substantial lessening of competition.

It was admitted by the Director that up to the time of the hearing no wholesale firm in the Edmonton territory considered as a competitor of Macdonalds Consolidated Limited had been eliminated from the market and there was no evidence of the lessening of competition. In fact, in the opinion of the Commission, the immediate effect of the price changes made by Macdonalds Consolidated Limited in January, 1958 was to increase rather than lessen competition.

While the Director considers that it is reasonable to assume that the margin on cigarettes provided under the resale price maintenance system in effect prior to 1952 gave room for reduction on the part of efficient operators, he did not consider that reductions could be made reasonably to the extent of those put into effect by Macdonalds Consolidated Limited in January, 1958. The Director contends that the reductions will have the effect eventually of lessening competition through the elimination of one or more

competitors in the Edmonton territory. Under a free competitive system of business enterprise changes in the structure of industry and trade are brought about by the working out of competitive forces. In most cases such changes cannot be related definitely to any one factor in business activity but are caused by the complex interaction of a number of factors. For this reason attempts to project the ultimate effect of a particular price change cannot be regarded as conclusive. It may be recalled that for the greater part of 1955 the prevailing price charged for popular brands of cigarettes by wholesalers in Edmonton was $2.80 per carton. The price established by the Edmonton branch of Macdonalds Consolidated Limited in January, 1958 is only one cent per carton less. A distinction between the two situations, made by one witness, was that the margins on chocolate bars and chewing gum did not decline in 1955. However, it was brought out that the price of $2.80 remained in effect in 1955 for ten or eleven months. In the case of cigarettes it is difficult to see any major difference between the situation in 1955 and that in 1958 from the viewpoint of appraising the competitive aspects, yet the price situation in 1955, although it substantially reduced the wholesale margin on cigarettes, does not appear to have been regarded as other than a manifestation of active competition.

One further aspect of the general situation in the wholesale grocery trade may be touched on. The grocery trade in Canada and in some other countries as well has been profoundly affected by the development of chain stores and supermarkets. It has been brought out in this inquiry, and indeed it is a matter of common trade knowledge, that constant efforts are being made to reduce to a minimum the distributive costs for the supply of goods to chain stores and supermarkets. In this competitive situation various means are being employed to assist independent merchants to compete successfully with mass distributors. Among the means used have been the development of co-operative chains of retail merchants and the cost-plus systems of merchandising referred to earlier in this report. In both cases, efforts are being made to reduce the cost of supplying goods to the independent merchant to the lowest possible level. When reduction in costs is made in a competitive situation of this kind not only is the retail merchant assisted but the consuming public benefits from the lower margins which reflect the reduction in distributive costs.

The attempt to forecast the effect of a particular price change under conditions of competition makes it necessary to hypothesize fixed conditions for the various enterprises in the market. One of the great values of a competitive system of business enterprise is its dynamic character, which produces changes in

operating methods and organization to meet new market situations. This quality is exhibited by wholesale grocers in the development of new systems of merchandising, such as cost-plus, to meet the competition of chain stores and supermarkets. The fact that the element of change is such an important factor in the operation of a competitive system clearly establishes the hypothetical nature of forecasts as to the ultimate working out of new competitive patterns.

At the same time the evidence in the inquiry makes clear that independent grocery wholesalers who handle tobacco and confectionery, and particularly wholesalers who specialize in the trade in such products and who are commonly referred to as tobacco and confectionery jobbers, have been seriously affected by the more active competitive situation in the distribution of tobacco and confectionery in the Edmonton territory. In attempting to meet directly the prices of cigarettes and confectionery under the lowest cost-plus brackets and the reduced prices put into effect by Macdonalds Consolidated Limited, the overall margins of tobacco and confectionery jobbers have been narrowed substantially, and this has had an immediate effect on profits. Reference has been made earlier to the evidence of several witnesses that the narrowing of margins has meant operating at a loss. The difficulties of jobbers operating under such conditions are obvious. They appear to result from the working out of new systems of distribution for products which, while forming the principal lines of commerce for the tobacco and confectionery jobber, are grouped with thousands of others in the general wholesale grocery trade. The impact of such competition upon the tobacco specialist trade is naturally more severe than upon the general grocery wholesaler. Nevertheless, if the new systems of distribution are soundly based on savings derived from more economical operations, the problem must be regarded as one of adjustment to new conditions of competition which are not against the public interest.

At the conclusion of the Commission hearing in Edmonton on July 29, 1958 it was stated by counsel representing Macdonalds Consolidated Limited that the company intended on August 11, 1958 to change the prices at its Edmonton branch for cigarettes, chocolate bars and chewing gum to the prices which it had in effect prior to January 6, 1958 and that it hoped that the prices so adopted would become the prevailing prices in the Edmonton

territory. The Commission heard no submissions in regard to the action so outlined on behalf of Macdonalds Consolidated Limited and it refers without comment to the statement of intention as a matter of record only.

(Sgd.) C.R. Smith
Chairman

(Sgd.) A.S. Whiteley
Member

Ottawa,
September 25, 1958.

APPENDIX

Macdonalds Consolidated Limited, Edmonton Branch

Comparison of Yield of Gross Profit Dollars on 10 High Gross Items as Compared to Yield of Cigarettes for Equal Cubic Feet of Warehouse Space in a Four Week Period

(Note: In each case we have chosen the best seller in its category as the example based on previous 12 week selling period*)

		Average No. of Weeks Stock Carried	Cost of Merchan-dise in Area Space	Area Space Sales in 4 weeks	Area Space Cost in 4 weeks	Gross Profit by Space in 4 weeks	Mark-up on Goods Occupying Space
Light Bulbs							
G.E. Bulbs Inside Frosted	24/100 Watt	5	3.28	2.88	2.62	.26	10%
Players Cigarettes Mild	200/25	1	38.82	160.48	155.28	5.20	3.33%
Drugs & Toiletries							
Brylcreem	12/Large	4	4.67	5.30	4.67	.63	15%
Players	200/25	1	1.97	8.16	7.88	.28	3.33%
Soft Goods							
Du Pont Sponges No.5	Ctn of 24	3.5	3.17	3.98	3.61	.37	10%
Players	200/25	1	19.85	82.00	79.40	2.60	3.33%
Spices							
Empress Black Pepper	12/St	4	1.10	1.21	1.10	.11	10%
Players	200/25	1	3.51	14.52	14.04	.48	3.33%

* March 24 to June 14, 1958

Macdonalds Consolidated Limited, Edmonton Branch

Comparison of Yield of Gross Profit Dollars on 10 High Gross Items
as Compared to Yield of Cigarettes for Equal Cubic Feet of Warehouse Space
in a Four Week Period (Continued)

		Average No. of Weeks Stock Carried	Cost of Merchandise in Area Space	Area Space Sales in 4 weeks	Area Space Cost in 4 weeks	Gross Profit by Space in 4 weeks	Mark-up on Goods Occupying Space
Dried Fruit							
California Seedless Raisins	16/2	3.8	7.63	8.60	8.01	.59	7%
Players	200/25	1	47.63	196.88	190.52	6.36	3.33%
Honey							
Altasweet Honey Tins	24/2	2	12.20	26.20	24.40	1.80	7%
Players Cigs.	200/25	1	71.55	295.72	286.20	9.52	3.3%
Jam							
Empress Strawberry	6/4	4	5.71	6.14	5.71	.43	7%
Players Cigs.	200/25	1	31.32	129.44	125.28	4.16	3.3%
Margarine							
Solo	30/1	2	8.25	17.70	16.50	1.20	7%
Players Cigs.	200/25	1	43.66	180.44	174.64	5.80	3.3%
Extracts							
Empress Vanilla	12/4 oz.	5	4.05	3.48	3.24	.24	7%
Players Cigs.	200/25	1	10.42	43.08	41.68	1.40	3.3%

Macdonalds Consolidated Limited, Edmonton Branch

Comparison of Yield of Gross Profit Dollars on 10 High Gross Items as Compared to Yield of Cigarettes for Equal Cubic Feet of Warehouse Space in a Four Week Period (Continued)

		Average No. of Weeks Stock Carried	Cost of Merchandise in Area Space	Area Space Sales in 4 weeks	Area Space Cost in 4 weeks	Gross Profit by Space in 4 weeks	Mark-up on Goods Occupying Space
Pickles							
Tender Crisp	12/16	3	2.52	3.59	3.36	.23	7%
Players Cigs.	200/25	1	28.78	118.96	115.12	3.84	3.3%
Canned Tomatoes							
Royal City	24/20	5	4.43	3.75	3.54	.21	6%
Players Cigs.	200/25	1	48.63	200.99	194.52	6.47	3.33%
Paper Goods							
Purex Tissue	100	3	10.86	15.33	14.48	.85	6%
Players Cigs.	200/25	1	338.34	1398.44	1353.36	45.08	3.3%
Washing Products							
Perfex	6/64	2	3.03	6.38	6.06	.32	5 1/2%
Players	200/25	1	58.35	241.16	233.40	7.76	3.3%
Facial Tissues							
Kleenex	72/200	3	10.61	14.90	14.14	.76	5%
Players	200/25	1	291.06	1203.04	1164.24	38.80	3.3%

Macdonalds Consolidated Limited, Edmonton Branch

Comparison of Yield of Gross Profit Dollars on 10 High Gross Items as Compared to Yield of Cigarettes for Equal Cubic Feet of Warehouse Space in a Four Week Period (Continued)

		Average No. of Weeks Stock Carried	Cost of Merchandise in Area Space	Area Space Sales in 4 weeks	Area Space Cost in 4 weeks	Gross Profit by Space in 4 weeks	Mark-up on Goods Occupying Space
Breakfast Foods							
Kellogg Cornflakes	36/12	2	8.40	17.38	16.80	.58	3.5%
Players Cigs.	200/25	1	345.44	1427.80	1381.76	46.04	3.3%
Sugar							
Gran.	10/5	1	4.92	20.40	19.68	.72	3.5%
Players	200/25	1	60.91	251.76	243.64	8.12	3.3%
Canned Milk							
Carnation	48/16	3	7.20	9.89	9.60	.29	3%
Players	200/25	1	72.76	300.76	291.04	9.72	3.3%

(Exhibit H-1)

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